

TSD File Inventory Index

Date August 2, 2004

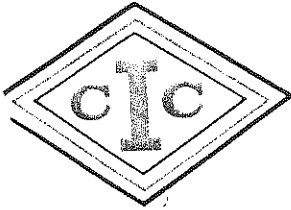
Initial CMK/...

Facility Name		<u>Commerce Industrial Chemicals, Inc.</u>	
Facility Identification Number		<u>WLD 988 795 181</u>	
A.1 General Correspondence	<u>A.1.1-A.1.8</u>	B.2 Permit Docket (B.1.2)	
A.2 Part A / Interim Status	<u>A.2</u>	1 Correspondence	<u>B.1.1-B.1.2</u>
1 Correspondence	<u>Y</u>	2 All Other Permitting Documents (Not Part of the ARA)	<u>B.1.3-B.1.4</u>
2 Notification and Acknowledgment	<u>Y</u>	C.1 Compliance - (Inspection Reports)	<u>See C.2</u>
3 Part A Application and Amendments	<u>Y</u>	C.2 Compliance/Enforcement	<u>C.2</u>
4 Financial Insurance (Sudden, Non Sudden)	<u>X</u>	1 Land Disposal Restriction Notifications	
5 Change Under Interim Status Requests		2 Import/Export Notifications	
6 Annual and Biennial Reports		C.3 FOIA Exemptions - Non-Releasable Documents	
A.3 Groundwater Monitoring		D.1 Corrective Action/Facility Assessment	
1 Correspondence		1 RFA Correspondence	
2 Reports		2 Background Reports, Supporting Docs and Studies	<u>D.1.2-D.1.4</u>
A.4 Closure/Post Closure		3 State Prelim. Investigation Memos	
1 Correspondence	<u>A.4.1-A.4.5</u>	4 RFA Reports	<u>See D.1.2</u>
2 Closure/Post Closure Plans, Certificates, etc	<u>See A.4.1</u>	D.2 Corrective Action/Facility Investigation	
A.5 Ambient Air Monitoring		1 RFI Correspondence	
1 Correspondence		2 RFI Workplan	
2 Reports		3 RFI Program Reports and Oversight	
B.1 Administrative Record		4 RFI Draft /Final Report	

Total - 8

5 RFI QAPP		7 Lab data Soil Sampling/Groundwater	
6 RFI QAPP Correspondence		8 Progress Reports	
7 Lab Data, Soil-Sampling/Groundwater		D.5 Corrective Action/Enforcement	
8 RFI Progress Reports		1 Administrative Record 3008(h) Order	
9 Interim Measures Correspondence		.2 Other Non-AR Documents	
10 Interim Measures Workplan and Reports		D.6 Environmental Indicator Determinations	
D.3 Corrective Action/Remediation Study		1 Forms/Checklists	
1 CMS Correspondence		E. Boilers and Industrial Furnaces (BIF)	
.2 Interim Measures		.1 Correspondence	
.3 CMS Workplan		.2 Reports	
.4 CMS Draft/Final Report		F Imagery/Special Studies (Videos, photos, disks, maps, blueprints, drawings, and other special materials.)	
.5 Stabilization		G.1 Risk Assessment	
.6 CMS Progress Reports		.1 Human/Ecological Assessment	
.7 Lab Data, Soil-Sampling/Groundwater		.2 Compliance and Enforcement	
D.4 Corrective Action Remediation Implementation		.3 Enforcement Confidential	
1 CMI Correspondence		4 Ecological - Administrative Record	
.2 CMI Workplan		5 Permitting	
3 CMI Program Reports and Oversight		.6 Corrective Action Remediation Study	
4 CMI Draft/Final Reports		.7 Corrective Action/Remediation Implementation	
5 CMI QAPP		.8 Endangered Species Act	
6 CMI Correspondence		.9 Environmental Justice	

Note Transmittal Letter to Be Included with Reports
Comments _____



COMMERCE *Industrial Chemicals Inc.*

5611 WEST WOOLWORTH AVE. MILWAUKEE, WIS. 53218 PHONE (414) 353-3630 TOLL FREE (800) 242-7091

RECEIVED
JUL 27 1988

OFFICE OF RCRA
Waste Management Division
U.S. EPA, REGION V

July 26, 1988

Wisconsin Department of Natural Resources
P. O. Box 12436
Milwaukee, WI 53212
Attn: Pamela Mylotta

Dear Ms Mylotta:

In response to your letter of June 30, 1988, we feel we have resolved the areas of apparent non compliance. Taken in the order you listed them, they are:

1. Training.

Enclosed are forms which have been developed for annual review of training. They include the areas of relevance to each group of employees. The date the training is received and an area for employee sign-off is included. When an employee has received this review, a copy of the sign off sheet is placed into his individual training file.

2. Manifest Requirements.

Enclosed are copies of labels with the correct address for the CIC Mill Road facility used to bring drums into compliance. All future drums from the Mill Road facility will be so labelled.

3. Manifest Requirements.

All manifests are signed and dated upon receipt of waste at our facility. Enclosed are copies of manifests of waste received after your inspection of June 2, 1988. Also enclosed is a copy of written procedure which is now in effect. This should ensure that future manifests will also be dated upon arrival.

4. Operating Record.

Enclosed are the forms which are now in use to record all incoming and outgoing shipments of waste. The forms provide us with the ability to have a running total of each area of waste, (types 1,2,3 and the reception area) and allow us to see at a glance whether or not a particular drum is still on site or has been shipped off-site.

Areas of Concern

1. All drums have been placed in such a manner that labels can be seen from the aisles. Also, the previously mentioned written procedure includes reference to this item for future drums.
2. We are in the process of installing an alarm that can be activated from various locations of the warehouse, including the waste room, which will sound in the office. This should be completed by September 1, 1988.

Thank you for your assistance in this matter. We appreciate your guidance. I will be out of town until August 15, 1988. If you have any questions before that date, please feel free to contact Fred or Don Michalski.

Yours very truly,



Harriet L. Pedersen

HLP:me
Enclosures

cc: Evelyn Wilson - SW/3
Shirley Brauer - EPA Region V - 5HW-12
Ed Lynch - SW/3
Glenn Sternard, Acting Chief
Michigan/Wisconsin Technical Enforcement Section

ANNUAL REVIEW FOR EMERGENCY COORDINATORS

Date:

Agenda:

1. Hazardous Waste Management System of CIC
 - a. Organization of personnel
 - b. Job titles
 - c. Job descriptions
 - d. Responsibilities and duties
2. Contingency Plan
 - a. Review of current plan
 - b. Discussion of current plan
 - c. Additions or corrections to current plan
 - d. Review of each person's responsibilities in an emergency
 - e. Plan a drill of the contingency plan
3. New Developments

In attendance:

Received copy of plan

ANNUAL REVIEW FOR OFFICE PERSONNEL

Date:

Agenda:

1. Contingency Plan
 - a. Review of current plan
 - b. Test on current plan

In attendance:

Received copy of plan:

ANNUAL REVIEW FOR WAREHOUSE PERSONNEL

Date:

Agenda:

1. Loading and unloading of waste drums
 - a. Palletizing
 - b. Condition of drums
2. Placement of drums
 - a. Where they go first
 - b. When to put them away by type
 - c. Placement on pallets so that labels are visible
3. The waste room
 - a. Door
 - b. Alarms
4. What to do in an emergency
 - a. Contingency Plan

In attendance:

Received plan:

ANNUAL REVIEW - DRIVERS

Date:

Topic: Driver's responsibility in picking up waste.

Agenda:

1. Condition of drums - leakers
2. Previous markings on drums
3. Hazardous waste labels
4. DOT labels
5. Placards
6. Manifest
7. Hazardous waste pick up order
8. Reporting responsibilities

In attendance:

HAZARDOUS WASTE

FEDERAL LAW PROHIBITS IMPROPER DISPOSAL

PROPER D.O.T. SHIPPING NAME & UN or NA NO.

"RQ" WASTE FLAMMABLE
LIQUID N.O.S. FLAMMABLE LIQUID UN 1993

IF FOUND CONTACT THE NEAREST POLICE
OR PUBLIC SAFETY AUTHORITY OR
U.S. ENVIRONMENTAL PROTECTION AGENCY.

GENERATOR INFORMATION:

NAME COMMERCIAL INDUSTRIAL CHEMICALS INC.

ADDRESS 3420 W. MILL RD

City MILWAUKEE STATE WI ZIP 53209

E.P.A. H.W. NO. FC05

E.P.A. I.D. NO. WID 023375884

MANIFEST DOCUMENT NO. WI 139444

ACCUMULATION START DATE 3-17-88

CONTAINS HAZARDOUS OR TOXIC WASTES

HANDLE WITH CARE!

HAZARDOUS WASTE

FEDERAL LAW PROHIBITS IMPROPER DISPOSAL

"RQ" WASTE PROPER D.O.T. SHIPPING NAME & UN or NA NO.

1,1,1, TRICHLOROETHANE ORM-A UN 2831

IF FOUND CONTACT THE NEAREST POLICE
OR PUBLIC SAFETY AUTHORITY OR
U.S. ENVIRONMENTAL PROTECTION AGENCY

GENERATOR INFORMATION:

NAME COMMERCE INDUSTRIAL CHEMICALS INC.

ADDRESS 3420 W. MILL Rd

City MILWAUKEE STATE WI ZIP 53209

E.P.A. H.W. NO. F002

E.P.A. I.D. NO. WID 02 337 5884

MANIFEST DOCUMENT NO. WI 139446

ACCUMULATION START DATE 6-8-88

CONTAINS HAZARDOUS OR TOXIC WASTES

HANDLE WITH CARE!

STATE OF WISCONSIN
Chapter 144, Wis. Stats.
Form 4400-66

Rev. 7-87

State of Wisconsin
Department of Natural Resources
Bureau of Solid Waste Mgt.
Box 8094
Madison, Wisconsin 53708

FOR DNR USE ONLY

Form Approved. OMB No. 2050-0039. Expires 9-30-88

Please print or type. Form designed for use on elite (12-pitch) typewriter.

UNIFORM HAZARDOUS
WASTE MANIFEST

1. Generator's US EPA ID No.
WID051616043

Manifest
Document No.
111

2. Page 1
of 1

Information in the shaded areas
is not required by Federal law.

3. Generator's Name and Mailing Address

Wiscas Olds-Tenault
3400 N. 108th St.

Greenfield, WI 532272

4. Generator's Phone (414) 327-4200

5. Transporter 1 Company Name
Moore Oil Company, Inc.

7. Transporter 2 Company Name

9. Designated Facility Name and Site Address

Commerce Industrial Chemicals

5611 W. Woolsort Ave.

Milwaukee, WI 53214

6. US EPA ID Number
WIL001779313

8. US EPA ID Number

10. US EPA ID Number
WIS000795163

A. State Manifest Document Number
WI G 19028

B. State Generator's ID

C. State Transporter's ID

D. Transporter's Phone 414-462-3200

E. State Transporter's ID

F. Transporter's Phone

G. State Facility's ID

H. Facility's Phone
414-353-3620

11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)

12. Containers
No. Type

13. Total
Quantity

14. Unit
wt/vol

15. Waste No.

a. WASTE FLAMMABLE LIQUID N.O.S.
WASTE FLAMMABLE NA 1993

12

DM

1110

G

P 10 10 15

b.

c.

d.

J. Additional Descriptions for Materials Listed Above

K. Handling Codes for Wastes Listed Above

Special Handling Instructions and Additional Information

16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations and according to the requirements of the Wisconsin Department of Natural Resources. If I am a large quantity generator, I also certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment;

OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.

Printed/Typed Name & Position Title

Signature

Date

Month Day Year

Rick Redy Ship Manager

Signature

Date

Month Day Year

17. TRANSPORTER 1 Acknowledgement of Receipt of Materials

Printed/Typed Name & Position Title

Signature

Date

Month Day Year

18. TRANSPORTER 2 Acknowledgement of Receipt of Materials

Printed/Typed Name & Position Title

Signature

Date

Month Day Year

19. Discrepancy Indication Space

20. FACILITY OWNER OR OPERATOR: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.

Printed/Typed Name & Position Title

Signature

Date

Month Day Year

FREDRICA MICHAELI V.P.

Signature

Date

Copy Distribution: 1 - Wis. DNR 4 - Facility

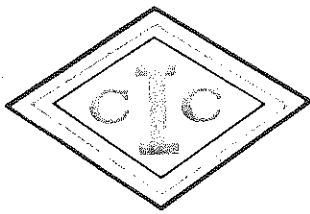
2 - Generator 5 - Generator

3 - Wis. DNR 6 - Transporter

Copies 1 & 3 mail to Wis. DNR at above address.

Emergency 24 Hour Assistance Telephone Number
In Wisconsin (608) 266-3232
Outside Wisconsin (800) 424-8802

COPY 4 -
FACILITY RETAIN



COMMERCE *Industrial Chemicals Inc.*

5611 WEST WOOLWORTH AVE. MILWAUKEE, WIS. 53218 PHONE (414) 353-3630 TOLL FREE (800) 242-7091

WASTE HANDLING PROCEDURE

1. Waste is received at our dock.
2. Drums are checked against the manifest for any discrepancies. (If discrepancies are found, the office is notified immediately and they are resolved before unloading drums.)
3. The manifest is signed and dated.
4. Each drum is marked with the date received.
5. Drums are palletized and put into the reception area.
6. The manifest is given to the office to be recorded on the receiving report.
7. Drums in the receiving area are confirmed against original samples. Their type is determined.
8. A drum transfer order is made out telling forklift driver specifically where the drums are to be placed.
9. The transfer out of the reception area is noted on the receiving report.
10. The transfer into a specific type (type 1,2 or 3) is noted in the operating log for that type.
11. Outgoing shipments are recorded on the operating log(s) and the outgoing manifest number is recorded next to each drum that makes up the shipment.
12. Receiving reports and operating logs are kept indefinitely.

RECEIVING REPORT

Previous Total

Date Rec'd	Generator	Incoming Manifest #	No of Drums	Waste Code	Date of Transfer	To Type	Remarks
---------------	-----------	------------------------	----------------	---------------	---------------------	------------	---------

[illegible][illegible][illegible]

TYPE OPERATING RECORD

Previous balance

[illegible]

5HR-12

NOV 02 1988

Don Michalski, President
Commerce Industrial Chemicals, Inc.
5611 W. Woolworth Avenue
Milwaukee, Wisconsin 53218

Re: Return to Compliance
Land Disposal Restriction
Inspection
WID 980 795 181

Dear Mr. Michalski:

U.S. EPA has reviewed the documents you submitted in response to the July 15, 1988, Notice of Violation. Your facility was returned to compliance on July 27, 1988, for the land disposal restriction violations discovered June 2, 1988.

If you have any questions regarding this correspondence, please contact Ms. Sue Rodenbeck of my staff at (312) 353-6134.

Sincerely yours,

James Brossman, Chief
MI/WI Technical Enforcement Section

cc: Pam Mylotta, WDNR-SED

	TYP.	AUTH.	IL/IN TECH. ENF. SEC.	MI/WI TECH. ENF. SEC.	OH/MN TECH. ENF. SEC.	IL/MI/WI ENF. PROG. SECTION	IN/MN/OH ENF. PROG. SECTION	RCRA ENF. BR. CHIEF	O.R. A.D.D.	WMD DIR
INIT. DATE	SC 11-1-88	SAR 11-1-88		JB 11-1-88						

NAME Sue K. Haskins DATE 6/10/88

FY 1988 HAZARDOUS WASTE COMPLIANCE MONITORING AND ENFORCEMENT LOG

Ver 2/10/8

1. EPA ID: W18 980 795 181

NEW

UPDATE

2. HANDLER NAME: Commerce Industrial Chemicals, Inc.3. ADDRESS: 501 W. Weymouth Avenue, Milwaukee, WI 532185. Date of initial evaluation which
is the basis for this report:
06/02/885a. Agency responsible
for evaluation:E = EPA S = State C = Contractor
O = Other B = Contractor/State
X = Oversight6. Type of Evaluation Covered in this Report: 1 = CEI (Compliance Eval. Inspection)
...select type and enter here: 2 = Sampling Inspection
3 = Record Review
4 = CME (Comprehensive GWM Eval.)
5 = Compliance Sched. Eval.
11 = Case devel. inspection
12 = O&M inspection

Optional Evaluations:

6. Citizen Complaint insp.
-
7. Part B call-in insp.
-
8. Part A withdrawal insp.
-
9. Closed Facility/Units insp.
-
10. Other general insp.

7. Date of evaluation covered by this report
(if different from #5 above)
 / / 7a. Eval. Comments: Lead Ban

8. CLASS AND VIOLATIONS:

Key:

- X = violations, no specialties
-
- B = violations and specialty
-
- S = same violation or specialty
-
- Z = pending determination
-
- O = no violation or specialty found

SPECIALTIES:

- I = No insurance only
-
- C = CA Schedule Violation
-
- R = 3008h-like release
-
- * = Class I only

VIOLATIONS OR RELEASES

Cls of Viol	GWM	C/PC	FIN	PT B	CMPL	MAN	L BAN	OTH
Class I							O	
Class II							X	
Accepted Codes for Data Input - see full list at left.	X S Z O R* B*	X S Z O	X S Z O I* B*	X S Z O	X S Z O C B	X S Z O	X S Z O	X S Z O

8a. Viol. comment: Failed to clearly mark drums

9. ENFORCEMENT ACTIONS:

Class	Area of Viol	Type of Action	Date Action Taken	Compliance Dates: Scheduled	Actual	Penalty Assessed	Collected	Resp. Agency
2	LB	03	7/15/88	8/15/88	8/1/88			E

E = EPA
S = State
X = EPA Oversight

Codes for Types of Enforcement Actions:

01- Interim Status Compliance Letter

02- '3007' Information Request

03- Warning Letter

04- Administrative Complaint

05- Final Administrative Order

06- 3013 Admin. Order (initial) or State equiv.

07- 3013 Admin. Order (final) or State equiv.

08- 7003 Admin. Order or State equivalent

10- Informal Action

11- Filed Civil Action

12- Filed Criminal Action

13- NOV to State (Viol. are referred by EPA to the state for action as a result of an EPA evaluation.)

14- NOV to EPA

15- CA Initial Administrative Order

16- CA Final Administrative Order

17- CERCLA 106 Administrative Order (EPA only)

18- Civil Referral to AG or DOJ

19- Final Judicial Order

20- CERCLA 106 fund financed activity

10. Enforcement Comment: _____

Not entered to HWDMS because Class 2 only. SAR 8/3/88



COMMERCE *Industrial Chemicals Inc.*

5611 WEST WOOLWORTH AVE. MILWAUKEE, WIS. 53218 PHONE (414) 353-3630 TOLL FREE (800) 242-7091

July 28, 1988

U.S. EPA, RCRA Enforcement Branch
230 S. Dearborn St.
Chicago, IL 60604
Attn: Ms. Sue Rodenbeck 5HS-12

RECEIVED
AUG 1 - 1988

OFFICE OF RCRA
Waste Management Division
U.S. EPA, REGION V

Dear Ms. Rodenbeck:

In response to your letter of July 15, 1988, in which you site two violations, we feel that we have resolved them as follows:

1. We are currently in the process of marking all drums that are currently on site with their arrival date. Also, we have developed a written procedure which includes the marking of the date received on all containers. This will insure continued compliance with 40CFR 268.50 (a)(2)(i).
2. (a) On July 1, 1988, we sent a letter to all of our existing generators, requiring that they provide the notice of restricted waste as set forth in 40CFR 268.7(a)(1). This letter will be issued to any new or potential generators who wish to send waste to our facility. A copy of this letter is enclosed.
- (b.) Also enclosed are copies of the forms which are now in use to record all incoming and outgoing shipments of waste. The forms provide us with the ability to have a running total of each type of waste and allow us to see at a glance whether or not a particular drum is still on site or has been shipped off site.

These two actions should bring us into compliance 40CFR 265.73.

It is our aim to be and remain in compliance with all applicable regulations. Thank you for your help. If you have any questions, please contact me.

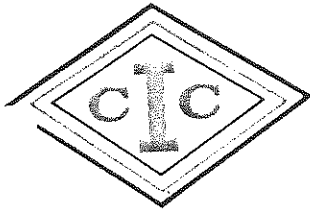
Yours very truly,


Harriet L. Pedersen

HLP:me

Enclosures

cc: Wis. Dept. of Natural Resources
Southeast District
Box 12436
Milwaukee, WI 53212
Attn: Pam Mylotta

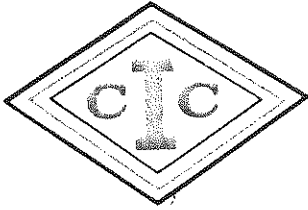


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5611 WEST WOOLWORTH AVE. MILWAUKEE, WIS. 53218 PHONE (414) 353-3630 TOLL FREE (800) 242-7091

WASTE HANDLING PROCEDURE

1. Waste is received at our dock.
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11. Outgoing shipments are recorded on the operating log(s) and the outgoing manifest number is recorded next to each drum that makes up the shipment.
12. Receiving reports and operating logs are kept indefinitely.



COMMERCE *Industrial Chemicals Inc.*

5611 WEST WOOLWORTH AVE. MILWAUKEE, WIS. 53218 PHONE (414) 353-3630 TOLL FREE (800) 242-7091

July 1, 1988

Dear Customer:

This letter includes several required notifications. Please read it carefully and then file it with your hazardous waste records.

1. Restricted Waste Notification.

The Environmental Protection Agency (EPA) has made it clear that it is requiring all generators who ship restricted waste to any TSD, even a storage or recovery facility, must provide that facility with the proper notice that the waste is a restricted waste.

In review, the land disposal restrictions prohibit the land disposal of spent solvent waste specified as EPA hazardous waste numbers F001, F002, F003, F004 and F005 unless the wastes are subject to a nationwide variance or subjected to a case by case variance or contain solvents at a level less than those specified in Table CCWE of 40 CFR 268.41.

Effective immediately, Commerce Industrial Chemicals, (CIC) will require that all shipments of restricted waste transported to our facility must be accompanied by a notice to our facility in accordance with CFR 40 268.7. This notice is in addition to the hazardous waste manifest already required to accompany each shipment.

To assist you, the generator, in complying with the regulation, we have enclosed a copy of an example of a notice form regarding restricted waste. Should you decide to use this form, please keep this one blank and copy it as needed. It is the only one we will provide.

If you have any questions regarding restricted waste or the "Land Ban" rule, the EPA has a hotline in Washington you may call at 1-800-42409346.

2. Procedure for Evaluating and Picking Up Waste.

A. All generators must have an EPA generators number. Applications are available from your local Department of Natural Resources office.

B. A representative quart sample of waste solvent is needed for laboratory examination by Commerce. The sample must be accompanied by a fully completed Profile Sheet furnished by Commerce.

C. Commerce's laboratory will determine whether Commerce can handle the waste.

D. If Commerce can handle the waste solvent, the following conditions must be in order:

1. Waste solvent must be in clean 55 gallon DOT approved drums. Drums must be full (allow air space for expansion). Also note, per EPA regulations, full drums must stand at least 24 hours before offering for transportation.

2. Leaking drums will not be picked up. All bungs must be the proper type for the drum. They must be secured and drum tops must be clean.

3. Drums must have proper DOT labels and EPA labels that are COMPLETELY filled out. All other labeling or descriptions on the drum must be removed or blocked out.

4. Drums to be picked up must be assembled in one area.

5. Proper manifest forms must be used. These can be obtained from your local Department of Natural Resources office.

6. Upon arrival at our facility, the drums will be checked against the original waste sample. If the drums do not match the sample, they will be returned to you under the original manifest at your expense.

3. CIC Notification.

This is to confirm that CIC holds the proper status with both the US EPA and the Wis. DNR as a treatment, storage and disposal (TSD) facility for the following classifications of waste:

D001
F001
F002
F003
F005
K086

We are able to accept your waste which falls into these classifications providing it meets minimum requirements for either reclamation or incineration. (Confirmation of waste classification is done by analytical testing.)

Our ID number is WID 980795181. Information regarding our facility can be obtained by contacting Region V of the US EPA or by contacting the Wisconsin DNR.

If Commerce cannot handle your waste we will help in finding someone who can. If you have any questions, please contact Fred Michalski.

NOTICE OF LAND DISPOSAL RESTRICTION OF WASTE

TO: _____
Designated Facility

Address

EPA ID No.: _____
Designated Facility

Under manifest number _____ line number _____ (enter 11a, 11b, 11c or 11d) the generator noted below is shipping to you a waste determined to be restricted under 40 CFR Part 268. In accordance with 40 CFR 268.7, the generator hereby provides notice that the waste is restricted and the EPA waste type and the appropriate treatment standards (from Table CCWE of 40 CFR 268.41) are as follows:

EPA Waste Type: _____ (enter F001, F002, F003, F004 or F005)

F001-F005 Solvents	TREATMENT STANDARDS (mg/l)		Check All That Apply
	Wastewater w/Solvents	All Other Solvent Waste	
Acetone	0.05	0.59	_____
n-Butyl alcohol	5.0	5.0	_____
Carbon disulfide	1.05	4.81	_____
Carbon tetrachloride	.05	.96	_____
Chlorobenzene	.15	.05	_____
Cresols (and cresylic acid)	2.82	.75	_____
Cyclohexanone	.125	.75	_____
1,2-dichlorobenzene	.68	.125	_____
Ethyl acetate	.05	.75	_____
Ethyl benzene	.05	.053	_____
Ethyl ether	.05	.75	_____
Isobutanol	5.0	5.0	_____
Methanol	.25	.75	_____
Methylene chloride	.20	.96	_____
Methylene chloride (from pharmaceutical industry)	12.7	.96	_____
Methyl ethyl ketone	0.05	0.75	_____
Methyl isobutyl ketone	0.05	0.33	_____
Nitrobenzene	0.65	0.125	_____
Pyridine	1.12	0.33	_____
Tetrachloroethylene	0.079	0.05	_____
Toluene	1.12	0.33	_____
1,1,1-Trichloroethane	1.05	0.41	_____
1,2,2-Trichloro - 1,2,2 trifluoroethane	1.05	0.96	_____
Trichloroethylene	0.062	0.091	_____
Trichlorofluoromethane	0.05	0.96	_____
Xylene	0.05	0.15	_____

Generator Name: _____ EPA ID#: _____

Generator Representative Signature: _____

Name & Title of Representative: _____
 (print or type)

S-K Sample Number: _____

RECEIVING REPORT

Previous Total

<u>Date</u> <u>Rec'd</u>	<u>Generator</u>	<u>Incoming</u> <u>Manifest #</u>	<u>No of</u> <u>Drums</u>	<u>Waste</u> <u>Code</u>	<u>Date of</u> <u>Transfer</u>	<u>To</u> <u>Type</u>	<u>Remarks</u>
-----------------------------	------------------	--------------------------------------	------------------------------	-----------------------------	-----------------------------------	--------------------------	----------------

[illegible][illegible][illegible]

TYPE OPERATING RECORD

Previous balance

<u>Date</u>	<u>Generator</u>	<u>Manifest #</u>	<u># of Drums</u>	<u>Row</u>	<u>New Balance</u>	<u>Remarks</u>	<u>Outgoing Manifest</u>	<u>Date Shipped</u>	<u>To</u>
-------------	------------------	-------------------	-------------------	------------	--------------------	----------------	--------------------------	---------------------	-----------

[illegible]

1 5 JUL 1988

5HS-12

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Don Michalski, President
Commerce Industrial Chemicals, Inc.
5611 W. Woolworth Avenue
Milwaukee, Wisconsin 53218

Re: Notice of Violation
Land Disposal Restriction
Inspection
Commerce Industrial Chemicals
WID 980 795 181

Dear Mr. Michalski:

On June 2, 1988, the Wisconsin Department of Natural Resources, representing the U.S. Environmental Protection Agency (U.S. EPA), conducted a Resource Conservation and Recovery Act (RCRA) inspection of the above-referenced facility. The purpose of the inspection was to determine the compliance status of your facility with respect to the applicable hazardous waste management requirements of RCRA, including the Federal land disposal restrictions. The land disposal restrictions for F001-F005 waste solvents became effective on November 8, 1986, (reference 51 Federal Register 40636: revisions to 40 CFR Parts 260-265, 268, and 270-271) and for "California List" hazardous wastes on July 8, 1987, (reference 52 Federal Register 25760: revisions to 40 CFR Parts 262, 264, 265, 268, and 270-271).

With respect to the land disposal restrictions (40 CFR Part 268) section of the inspection, your facility was found to be in violation of the following:

1. Failure to identify contents and mark dates on all containers entering storage, as required by 40 CFR 268.50(a)(2)(i);
2. Failure to maintain a complete operating record to include 40 CFR Part 268 requirements in accordance with 40 CFR 265.73.

A copy of the inspection report is enclosed for your records. Please submit to U.S. EPA, within thirty (30) days of receipt of this Notice of Violation, documentation demonstrating that the above-cited violations have been corrected and indicating what measures have been initiated to assure future compliance. Failure to correct the violations may subject

Domestic Return Receipt (Form 3800) (Rev. 1-78)

Postmark: JUL 20 1988

Signature of addressee: *Don Michalski*

Address: *Commerce Industrial Chemicals, Inc. 5611 W. Woolworth Ave. Milwaukee, WI 53218*

Delivery: *Hand*

Remarks: *Inspection report enclosed*

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE USE, \$300

RETURN TO



Ms. Sue Rodenbeck-5HR-12, REB

(Name of Sender)

U.S. EPA, 230 S. Dearborn

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

Chicago, IL 60604

(City, State, and ZIP Code)

assure
have bee
of violat
submit
A copy o

part 588 requirements in accordance with 40 CFR 588.13
5. Failure to maintain a complete operating record to include 40 CFR

entering storage, as required by 40 CFR 588.20(a)(5)(i)?

1. Failure to identify contents and mark dates on all containers

following:

of the inspection, your facility was found to be in violation of the
with respect to the land disposal restrictions (40 CFR part 588) section

588.0: revisions to 40 CFR parts 585, 586, 587, 588, and 589-591).
list hazardous wastes on July 8, 1987, (reference 25 Federal Register
revisions to 40 CFR parts 580-582, 588, and 589-591) and for California
became effective on November 8, 1986, (reference 21 Federal Register 40838:
restrictions. The land disposal restrictions for F001-F002 waste solvents
management requirements of RCRA, including the Federal land disposal
status of your facility with respect to the applicable hazardous waste
facility. The purpose of the inspection was to determine the compliance
Conservation and Recovery Act (RCRA) inspection of the above-referenced
the U.S. Environmental Protection Agency (U.S. EPA), conducted a Resource
on June 5, 1988, the Wisconsin Department of Natural Resources, representing

Dear Mr. Michalski:

MID 880 102 181

Commerce Industrial Chemicals
Inspection

Land Disposal Restriction

Re: Notice of Violation

Milwaukee, Wisconsin 53218

2011 M. Moorworth Avenue

Commerce Industrial Chemicals, Inc.

Don Michalski, President

RETURN RECEIPT REQUESTED
CERTIFIED MAIL

J 2 JUL 1988

2H2-JS

the facility to further Federal enforcement action. The documentation should be submitted to the attention of Ms. Sue Rodenbeck, U.S. EPA, RCRA Enforcement Branch (5HS-12), 230 South Dearborn Street, Chicago, Illinois 60604. A copy of this documentation should also be sent to:

Wisconsin Department of Natural Resources
Southeast District
Box 12436
Milwaukee, Wisconsin 53212
Attention: Pam Mylotta

If you have any questions regarding this matter, please telephone Sue Rodenbeck of my staff at (312) 353-6134.

Sincerely yours,

Glenn Sternard, Acting Chief
Michigan/Wisconsin Technical Enforcement Section

Enclosure

cc: Ed Lynch - WDNR - Madison
Pam Mylotta - WDNR - SED

bcc: Patricia Polston

SRODENBECK:slowery 7-7-88 Disk 1 Lex.

	TYP.	AUTH.	IL/IN TECH. ENF. SEC.	MI/WI TECH. ENF. SEC.	OH/MN TECH. ENF. SEC.	IL/MI/WI ENF. PROG. SECTION	IN/MN/OH ENF. PROG. SECTION	RCRA ENF. BR. CHIEF	O.R. A.D.D.	WMD DIR
INIT. DATE	7/13/88 SAR	7/13/88 SAR		JP 5/15/88						

RCRA LAND DISPOSAL RESTRICTION INSPECTION

Facility: Commerce Industrial Chemicals, Inc.

U.S. EPA I.D. No.: W10 980795181

Street: 5611 W. Woolworth Ave

City: Milwaukee State: WI Zip Code: 53218

Telephone: 414-353-3630

Operator: Don Michalski - President

Street: 5611 W Woolworth

City: Milw State: WI Zip Code: 53218

Telephone: 414 353-3630

Owner: Don Michalski

Street: same

City: _____ State: _____ Zip Code: _____

Telephone: same

Inspection Date: 6/2/88 Time: 1:30 - PM Weather Conditions: Clear, cool

	Name	Affiliation	Telephone
Inspectors:	<u>Pam Mylotta</u>	<u>Wisc DNR</u>	<u>414 562-9655</u>
	<u>Fred Lynch</u>	<u>Wisc DNR</u>	<u>(608) 266-3084</u>
Facility Representatives:	<u>Don Michalski, Fred Michalski</u>		
	<u>Harriet Pederson, Ron Nellis</u>		

	RCRA Status	F-Solvent	LDR Status California List
Generator	<u>Small</u>	<u>X</u>	_____
Transporter	<u>X</u>	<u>X</u>	_____
Treater	_____	_____	_____
Storer	<u>X</u>	<u>X</u>	_____
Disposer	_____	_____	_____

INSPECTION SUMMARY

The facility ^(CIC) has a USEPA permit for storage and is undergoing licensing from Wisconsin. The company accepts waste solvents from its ~~clients~~ customers, for whom it sells the products. Commerce stores waste solvents in containers and arranges for their shipment to recycling facilities or for incineration.

A compliance evaluation inspection was performed.

CIC is aware of the Land Disposal Restrictions and has been attaching properly completed notifications to its shipments of F-listed solvent waste. Its customers are not, however, attaching notification when shipping these waste streams to CIC.

- waste analysis has been revised to include reference to land ban requirements. Facility will be (is) attaching notifications to shipments in accordance with the plan.

- C/C shipped its F001 and F002 solvents in 1987-88 to Safety Kleen - Elgin - ILD 000805911

C/C shipped its F005 solvents in 1987-88 to Safety Kleen EnviroSystems ~~IL~~ IL D980613913

- Inspection of drum storage -
unfortunately, many labels could not be ^{or read} seen, because the drums were not all turned outward, although C/C representatives claim all drums are labeled (they maintain the original generator label until shipment from the facility). Labels that could be read identified the contents but did not show the date of receipt into storage, although most still had the generator date of accumulation, which, together with a review of the operating log, appear to indicate storage not exceeding one year.

- See Attached -

Attachment k to Inspection Summary

Operating log ~~logs~~ records, for each month, each shipment received (Date, manifest #, generator, waste code, # drums/code), and then separately, shipments from CIC (Date, manifest #, waste code, # drums). ~~and~~

The storage location for the waste is not identified, although it may be determined indirectly by looking at the waste analysis attached to the ~~the~~ received manifest. The manifests for shipments from CIC have a separate page attached which lists the original generator and # drums per each. This system is clumsy and makes it difficult to check the one year storage. See ~~see~~ required CIC to revise the log to track shipments better.

Pam + Nyloka

RCRA LAND DISPOSAL RESTRICTION INSPECTION APPLICABILITY CHECKLIST

Does the facility handle the following wastes?

		Gen.	Treat	Store	Disp.	Trans.
A. <u>F-Solvent Wastes</u>		<u>NO</u>				
1. F001		<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u>X</u>
2. F002		<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u>X</u>
3. F003		<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u>X</u>
4. F004		<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5. F005		<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u>X</u>

Note: Use Appendix A to determine whether the facility is misclassifying any of its wastes.

B. California List Wastes NO

- Liquid hazardous waste (including free liquids associated with any solid or sludge) that contains the following metals at concentrations greater than or equal to those specified

		Gen.	Treat	Store	Disp.	Trans.
Arsenic	500 mg/L	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Cadmium	100 mg/L	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Chromium VI	500 mg/L	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Lead	500 mg/L	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Mercury	20 mg/L	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Nickel	134 mg/L	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Selenium	100 mg/L	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Thallium	130 mg/L	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

2. Liquid hazardous waste (including free liquids associated with any solid or sludge) that contains free cyanides at concentrations greater than or equal to 1,000 mg/L **NO**

Gen.	Treat	Store	Disp.	Trans.
_____	_____	_____	_____	_____

3. Liquid hazardous waste that has a pH of less than or equal to 2.0 **NO**

_____	_____	_____	_____	_____
-------	-------	-------	-------	-------

4. Liquid hazardous waste that contains PCBs at concentrations greater than or equal to **NO**

50 ppm _____

500 ppm _____

Does the facility mix liquid hazardous waste that contains PCBs with other types of wastes?

_____ Yes _____ No _____ NA

If yes, state reasons for mixing:

5. Liquid hazardous waste that is primarily water and that contains HOCs greater than or equal to 1,000 mg/L (dilute HOC wastewater) and less than 10,000 mg/L **NO**

Note: The prohibitions of 268.32(a)(3) and (e) do not apply if the HOC waste is also subject to the solvent restrictions of 268 Subpart C or a specific HOC.

RCRA LAND DISPOSAL RESTRICTION INSPECTION

TRANSPORTER CHECKLIST

TRANSPORTER REQUIREMENTS

- A. Does the transporter accumulate waste for more than 10 days [268.50(A)(3)]?

_____ Yes X No

If yes, check the appropriate regulatory status:

_____ Interim status for storage
_____ RCRA permit for storage

If no, describe inventory controls to ensure that wastes are not stored for more than 10 days: waste is placed in c/a's

the permitted storage facility

- B. Does the transporter mix, combine, or recontainerize wastes?

_____ Yes X No

- C. Is the waste treated in an exempt treatment process on-site?

_____ Yes X No

RCRA LAND DISPOSAL RESTRICTION INSPECTION

TSD CHECKLIST

TSD REQUIREMENTS

A. General Facility Standards

1. Does the waste analysis plan cover Part 268 requirements [264.13 or 265.13]?

o F-solvent ☒ Yes ☐ No ☐ NA
 o California List ☒ Yes ☐ No ☒ NA

2. Does the facility obtain representative chemical and physical analyses of wastes and residues?

☒ Yes ☐ No

a. What date was the waste analysis plan last revised? 2/88

b. Are analyses conducted on-site or off-site?

☒ On-site ☐ Off-site

Identify off-site lab: _____

c. Is F-solvent waste analyzed using TCLP?

☐ Yes ☒ No ☐ NA

d. Describe the frequency of sampling: each shipment

e. Describe procedures used to identify manifest discrepancies:

initial inspection by Lic transporting driver;
drum count of received shipment;
composite sample analyzed for
chlorinated compounds;

3. Are the operating records, including analyses and quantities, complete [264.73/265.73]?

☒ Yes ☐ No

B. Storage (268.50)

1. Are restricted wastes stored on-site?

☒ Yes ☐ No

If no, go to C, Treatment in Surface Impoundments.

2. If yes, check the appropriate method.

☒ Tanks
☒ Containers

3. Are all containers clearly marked to identify the contents and date(s) entering storage?

☐ Yes ☒ No ☐ NA

Not all container labels could be observed. Those inspected showed contents but not date entering storage, although generator accumulation date was seen on many, not all

4. Do operating records track the location, quantity of the wastes, and dates that the wastes enter and leave storage?

☒ Yes ☐ No

But records are not cross-referenced - difficult to track any one container.

5. Do operating records agree with container labeling?
- Difficult to tell*

☐ Yes ☐ No ☐ NA

6. Have wastes been stored for more than 1 year since the applicable LDR regulations went into effect?

☐ Yes ☒ No ☐ NA

According to representation of containers where labels were visible, which had accumulation date - also NO, not beyond 1 year.

If yes, can the facility show that such accumulation is necessary to facilitate proper recovery, treatment, or disposal?

☐ Yes ☐ No

Did not evaluate the operating log for this - very difficult

If yes, state how: _____

B. Storage (268.50) (continued)

9. Does the storage facility ship any waste that exceeds the treatment standards to an off-site treatment or storage facility?

X Yes No

If yes, does the storage facility provide notification to the treatment or storage facility?

X Yes No

If yes, does notification contain the following:

EPA Hazardous waste number(s) X Yes No

Applicable treatment standards X Yes No

Manifest number X Yes No

Waste analysis data, if available Yes No

Identify off-site disposal facilities: ~~Safety Kleen Environments~~
~~in Elgin, IL all waste sent for recycling or~~
~~incineration.~~

10. Does the storage facility ship any waste that meets the treatment standards to an off-site disposal facility?

 Yes X No

If yes, does the storage facility provide notification and certification to the disposal facility:

 Yes No

If yes, does notification contain the following:

EPA Hazardous waste number(s) Yes No

Applicable treatment standards Yes No

Manifest number Yes No

Waste analysis data, if available Yes No

Certification that the waste meets treatment standards Yes No

Identify off-site disposal facilities:

7. Have tanks been emptied at least once per year since the applicable LDR regulations went into effect?

____ Yes ____ No X NA

If yes, do the operating records show that the volume of waste removed from tanks annually equals or is more than the tank volume?

____ Yes ____ No

8. Are all tanks clearly marked with a description of the contents, the quantity of wastes received, and date(s) entering storage, or is such information recorded and maintained in the operating record?

____ Yes ____ No X NA

C. Treatment

1. Does the facility treat restricted wastes other than in surface impoundments?

____ Yes ____ No

If no, go to D, Treatment in Surface Impoundments.

2. Describe the treatment processes:

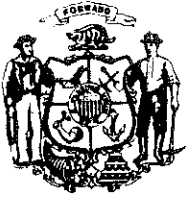
3. Does the facility, in accordance with an acceptable waste analysis plan, determine whether the residue from all treatment processes is less than treatment standards [268.7(b)]?

____ Yes ____ No

4. Describe frequency of testing treatment residuals:

5. Is dilution used as a substitute for treatment?

____ Yes ____ No



State of Wisconsin

P.O. Box 12436
Milwaukee, WI 53212

DEPARTMENT OF NATURAL RESOURCES

RECEIVED
JUL 01 1988

Carroll D. Besadny
Secretary

June 30, 1988

U.S. EPA, REGION V
WASTE MANAGEMENT DIVISION
OFFICE OF THE DIRECTOR

File Ref: 4430

Mr. Don Michalski
Commerce Industrial Chemicals, Inc.
5611 W. Woolworth Avenue
Milwaukee, WI 53218

Dear Mr. Michalski:

RE: Hazardous Waste Inspection

Enclosed are copies of the inspection forms that were completed and verified concerning Commerce Industrial Chemicals, Inc. located at 5611 W. Woolworth Avenue, Milwaukee, Wisconsin, EPA ID# WID-980795181 on June 2, 1988.

At the time of the inspection it was found that Commerce Industrial Chemicals, Inc. (CIC) was not in compliance with the hazardous waste storage facility requirements of Chapter NR 181, Wisconsin Administrative Code.

Identified below are the alleged areas of noncompliance with Chapter NR 181 and the actions needed to resolve these apparent violations. Additionally, two areas of concern are described, which CIC should address to ensure future compliance with hazardous waste regulations.

Areas of Apparent Non-Compliance

1. Personnel Training - CIC had no documentation that personnel received an annual review of training, as required by Sections NR 181.42(5)(c) and (d), Wisconsin Administrative Code.

To correct this, CIC must submit documentation that personnel receive an annual review of training, including dates that review is received and sign-off for each individual.

2. Manifest Requirements - CIC had received manifested shipments from CIC - Mill Road facility which were incorrectly labeled, in apparent violation of Section NR 181.42(6)(a)2., Wisconsin Administrative Code.

To correct this, CIC must document that labels for the CIC - Mill Road containers show the correct address.

3. Manifest Requirements - CIC had received manifested shipments into the storage facility, but did not sign and date the manifest until the shipments had been analyzed in accordance with the Waste Analysis Plan, and therefore could not immediately give a copy to the transporter as required by Section NR 181.42(6)(a)4., Wisconsin Administrative Code.

To correct this, CIC must document that it is signing manifests when shipments are received at the facility. CIC must submit an explanation of the procedures that CIC will follow to ensure that manifests will be signed when shipments are received, and must submit copies of manifests which have been so signed and dated since receipt of this letter.

If subsequent analyses show that there is a significant discrepancy in the shipment, then the procedures described in Section NR 181.42(6)(a)6., Wisconsin Administrative Code should be followed.

4. Operating Record - CIC does not adequately record the location where each hazardous waste is placed within the facility and the quantity at each location, as required by Section NR 181.42(6)(d)1.c., Wisconsin Administrative Code. CIC does maintain an operating log, but it is very difficult to identify where containers for any one shipment are stored in the facility or whether they are still stored at the facility at any one time.

To correct this, CIC must submit a revised operating log which shows for each shipment received: Date received, manifest number, generator name, waste codes received, number of drums per waste code, location(s) in the facility - for example, staging area prior to analysis, type one, two or three areas, and date(s) of shipment from CIC. CIC should also keep a running total of the number of drums in each area.

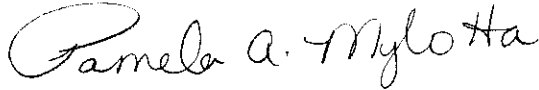
Areas of Concern

1. During the inspection, many labels on containers could not be observed. Therefore, it is difficult to check the facility's compliance with the labeling requirements of the land disposal restrictions section of the hazardous waste requirements, found in 40CFR 268. CIC should rearrange the containers - turn them - so labels are visible from the aisles.
2. The facility relies on voice communication for people in the storage area to get access to alarms or phones in emergencies. This may be adequate when the overhead door is open, but does not appear to be adequate when the door is closed. I would recommend either installing a direct buzzer or other alarm switch in the storage area or instituting measures to ensure that the overhead door remains open while the storage area is occupied.

You must document to the Department that the above areas of noncompliance have been corrected. If I can be of any assistance in providing guidance to help you meet these standards, please feel free to contact me at (414) 562-9655. You must provide written documentation to the Department within 30 days to verify that these standards have been put into place.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Pamela A. Mylotta".

Pamela A. Mylotta
Hazardous Waste Specialist
Southeast District Headquarters

PAM:sbr

Enclosure

c: Evelyn Wilson - SW/3
Shirley Brauer - EPA Region V - SHS-12
Ed Lynch - SW/3

580

DNR District

W10980795181

EPA ID Number

STATE OF WISCONSIN
Department of Natural Resources
General Facility Standards Inspection Form
Treatment, Storage, and Disposal Facilities

Note: A separate inspection form must be completed for each treatment, storage, or disposal facility, even if more than one facility is owned by the same person or company unless the facilities are located on one contiguous parcel of land.

I. General Information

Corporate/Facility Name: Commerce Industrial Chemicals, Inc

Facility Location:

Street: 5811 W. Woolworth

City & Zip: Milwaukee Town: 53218 County: MILW

Contact Person: Harriet Pederson Title: Permit Writer

Facility Mailing Address:

Street: same

City: _____ State: _____ Zip Code: _____

Phone: _____

Operator: Don Michalski Title: President

Street: same

City: _____ State: _____ Zip Code: _____

Phone: (414) 353-3630

Legal Owner: Don Michalski

Street: same

City: _____ State: _____ Zip Code: _____

Phone: _____

DNR District Inspector: Pam Mylotta Date: 6/2/88

Revised November 1985

- e. If the waste is generated off-site, the waste analysis the generator(s) have agreed to supply?

[] [] CIC always analyzes
 Yes No (Comments or Clarification)

- f. If the waste is generated off-site, the procedures for inspecting and, if necessary, analyzing each shipment of waste received to ensure that it matches the identity of the waste on the manifests?

☒ []
 Yes No (Comments or Clarification)

For Department Use

C. Waste Stream Information: Lab waste

<u>Waste Type</u>	<u>Potential Hazardous Constituents/Characteristics</u>	<u>Generator Rate</u>	<u>EPA Waste Code</u>
1. Flammable - solvents	ignitable	less than 1 drum month	D001
2. Chlorinated solvents	toxic		F001, F002
3.			
4. toxic ignitable - solvents	ignitable, toxic		F005
5.			

Attach waste profile or analysis for each waste stream or indicate how the facility has complied with NR 181.22, Hazardous Waste Determination, for each waste stream.

For Department Use

D. Security: (NR 181.42(3))

1. How is access and unauthorized entry controlled at the facility? Indicate which of the following mechanisms are used by checking the appropriate boxes which best describe the facility's controls:

E. Reporting: (NR 181.42(6)(c))

1. Have quarterly reports covering facility activities during the previous reporting quarters been consistently submitted (they must be submitted within 30 days of the close of each reporting quarter) to the Department?

☒ []
Yes No

(Comments or Clarification)

2. Does the facility accept hazardous waste from off-site?

☒ []
Yes No

(Comments or Clarification)

If the answer to #2, above, is yes, complete #3.

3. Has the hazardous waste been accepted for treatment, storage, or disposal from an off-site source without an accompanying manifest or shipping paper?

[] ☒ according to representatives - all
Yes No shipments are manifested.
(Comments or Clarification)

- a. If the answer to #3, above, is yes, is the hazardous waste excluded from the manifest requirement by s. NR 181.13?

[] []
Yes No

(Comments or Clarification)

- b. If the answer to 3a, above, is no, has an unmanifested waste report been submitted to the Department within 15 days of receiving the waste?

[] []
Yes No

(Comments or Clarification)

For Department Use

F. Inspections: (NR 181.42(7))

1. Does the facility have a written inspection schedule?

☒ []
Yes No

from EPA Permit
(Comments or Clarification)

1. Name of Inspector?



[]

Yes

No

(Comments or Clarification)

For Department Use

G. Contingency Plan and Emergency Procedures: (NR 181.42(4)(a) & (c))

1. Does the facility have a written contingency plan addressing potential discharges of hazardous waste or hazardous waste constituents to air, land, groundwater or surface water?



[]

Yes

No

3/4/88

Revisions

(Comments or Clarification)

If the answer to #1, above, is yes, then answer questions #2 through #8. If the answer to #1, above, is no, then indicate below what measures are being taken to prepare the plan. The Contingency Plan and any revisions to the plan are required to be submitted to the Department. The plan must comply with NR 181.42(4)(a) and (c), Wisconsin Administrative Code. An existing spill prevention, control and countermeasures (SPCC) plan may be amended to comply with this requirement.

2. Is a copy of the Contingency Plan kept at the facility?



[]

Yes

No

inspected

(Comments or Clarification)

3. Has a copy of the Contingency Plan or a letter stating that the Contingency Plan is kept at the facility and available for review been sent to all local police and fire departments, hospitals and emergency response teams who may be called to provide emergency services?



[]

Yes

No

(Comments or Clarification)

4. Does the plan identify an Emergency Coordinator, who is always on-site when the facility is in operation, and if appropriate, alternates, with names, addresses, phone numbers (office and home) provided?



[]

Yes

No

(Comments or Clarification)

- 2) Telephone the division of emergency government and comply with the requirements of s. 144.76, Stats., and ch. NR 158, Wis. Adm. Code.

☒ [] _____
Yes No (Comments or Clarification)

- 3) Immediately identify the character, source, amount, and areal extent of any discharged materials.

☒ [] _____
Yes No (Comments or Clarification)

- 4) Assess possible hazards to human health or the environment that may result from discharge, fire, or explosion.

☒ [] _____
Yes No (Comments or Clarification)

- 5) Immediately notify appropriate authorities, if an assessment indicates that a discharge, fire, or explosion could threaten human health or the environment outside the facility, and that evacuation of local areas may be advisable.

☒ [] _____
Yes No (Comments or Clarification)

- 6) Take all reasonable measures necessary to ensure that fires, explosions, and discharges do not occur, reoccur, or spread to other hazardous waste at the facility.

☒ [] _____
Yes No (Comments or Clarification)

- 7) Monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes or other equipment, where appropriate, if the facility stops operation in response to a fire, explosion, or discharge.

[] [] Not applicable
Yes No (Comments or Clarification)

- 8) Provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a discharge, fire, or explosion at the facility, immediately after an emergency.

☒ [] _____
Yes No (Comments or Clarification)

c. Portable fire extinguishers?

☒ [] yearly recharge
Yes No checked monthly for location
(Comments or Clarification)

d. Fire control equipment, including special extinguishing equipment and extinguishing agents? (Include type and volume of extinguishing agents in "comments" section.)

☒ [] 2 ABC 20lb extinguishers - tested
Yes No Same as c.
(Comments or Clarification)

e. Adequate spill control equipment?

☒ [] checked monthly
Yes No (Comments or Clarification)

f. Decontamination equipment?

☒ [] Steam cleaning unit - checked
Yes No (Comments or Clarification) monthly

2. Is all of the emergency equipment mentioned in #1 tested and maintained as required to assure its proper operation in an emergency?

☒ [] _____
Yes No (Comments or Clarification)

3. Specify how often the equipment mentioned in #1 is tested to assure proper operation:

see each item.

4. Is immediate access to internal or external alarms from hazardous waste handling areas provided?

☒ [] Under normal operation - problems may occur
Yes No (Comments or Clarification)

IF OVERHEAD DOOR CLOSES.
5. Have the following arrangements, as applicable, been made involving emergency organizations?

a. If more than one police and fire department may respond to an emergency, have agreements designating primary authority and support roles been made?

☒ [] _____
Yes No (Comments or Clarification)

I. Personnel Training/Records: (NR 181.42(5))

1. Does the facility have a program of classroom instruction or on-the-job training for personnel in hazardous waste management procedures?

☒ []
Yes No

(Comments or Clarification)

If the answer to #1, above, is no, then a training program must be developed.

If the answer to #1, above, is yes, then answer the following questions (#2-#4) below:

2. Does this program include training of personnel in Contingency Plan implementation?

☒ []
Yes No

(Comments or Clarification)

3. Are the following items included in the program, if applicable?

- a. Procedures for using, inspecting, repairing and replacing facility emergency and monitoring equipment?

☒ []
Yes No

(Comments or Clarification)

- b. Key parameters for automatic waste feed cut-off systems?

[] []
Yes No

Not applicable

(Comments or Clarification)

- c. Communications or alarm systems?

☒ []
Yes No

(Comments or Clarification)

- d. Response to fires or explosions?

☒ []
Yes No

(Comments or Clarification)

- e. Shutdown of operations?

☒ []
Yes No

(Comments or Clarification)

J. Manifest System: (NR 181.42(6)(a))

Note: Complete questions 1-7 if the facility receives hazardous waste from off-site (even if the off-site facility is owned by the same company). Complete questions 1, 2, 4 and 8-13 if the facility generates a hazardous waste which is shipped off-site. Complete questions 1-13 if the facility both receives hazardous waste from off-site and sends hazardous waste off-site.

1. Are copies of manifests available for review?

☒ Yes ☐ No

(Comments or Clarification)

2. Are manifests properly completed? Facility does not sign manifests until analyses have been run.
~~these inspected were~~

☒ Yes ☐ No

(Comments or Clarification)

3. Does the facility receive a State of Wisconsin uniform manifest with all shipments of hazardous waste?

☒ Yes ☐ No

ALL

(Comments or Clarification)

4. Are records of past shipments (to/from) the facility (manifests) retained at the facility?

☒ Yes ☐ No

forever

(Comments or Clarification)

Note: Records of past shipments (manifests) must be retained at the facility for at least 3 years after the date of shipment.

5. Are copies of the completed manifest sent to the Department as required on the form?

☒ Yes ☐ No

according to representatives; records inspected also indicate yes.

(Comments or Clarification)

6. Are container or portable tank labels consistent with the manifests?

☒ Yes ☐ No

according to representatives; the

(Comments or Clarification)

7. Are discrepancy procedures followed properly if a discrepancy has occurred? containers observed appeared to be consistent except *

☒ Yes ☐ No

according to representatives; no letters have ever been sent to DNR.

(Comments or Clarification)

next page #2

*1 # some from old - mill Road facility showed 5611 Woolworth on labels - this needs to be corrected (pre printed labels)

2. Does the facility only accept hazardous waste that the operator is allowed to manage under the facility interim license, operating license, variance, or licensing exemption?

☒ [] according to representatives - & by
Yes No (Comments or Clarification)
manifest check & inspection of some drums

3. Does the amount of wastes in storage or treatment comply with (not exceed) the maximum inventory authorized in the authorization under 1.?

☒ [] _____
Yes No (Comments or Clarification)

For Department Use

ALSO CHECKED:

Containment structure in place? yes

Plan Approval Conditions? yes

EPA Permit reviewed? YES

L. Closure Plan: (NR 181.42(8) & (10))

- *1. Does the facility have a written closure plan?

☒ [] 3/4/88 revisions
Yes No (Comments or Clarification)

If the answer to #1, above, is yes, then attach a complete copy of the plan to this form and answer question #2, below. If the answer to #1 above is no, indicate below what measures are being taken to prepare the plan.

~~in EPA Permit~~ in file

INSPECTED

2. Are the following items included in the closure plan?

- a. Closure timetable including any intervening partial closure activities. The closure timetable must include a description of how and when the facility will be partially closed, if applicable and finally closed.

☒ [] _____
Yes No (Comments or Clarification)

- b. Description of possible uses of the land after closure if waste will remain on-site after closure.

[] [] waste will not remain onsite
Yes No (Comments or Clarification)

- b. The method(s) and date(s) of each waste's treatment, storage or disposal?

☒ []
Yes No

(Comments or Clarification)

- c. The location and quantity of each hazardous waste within the facility (treatment and storage facilities only)?

☐ [] ☒
Yes No

Not adequately represented in operating record.
(Comments or Clarification)

- d. A map or diagram of each cell or disposal area showing the location and quantity of each hazardous waste (disposal facilities only--i.e., landfills and surface impoundments)?

☐ [] []
Yes No

Not applicable
(Comments or Clarification)

Note: The information from questions c. and d. must be cross-referenced to specific manifest numbers for manifested shipments.)

- e. Records and results of all waste analysis and trial tests?

☒ []
Yes No

with each manifest
(Comments or Clarification)

- f. Records and results of inspections?

☒ []
Yes No

in logbook
(Comments or Clarification)

- g. Summary reports and details of all incidents that required implementation of the contingency plan including any necessary measures which have been or will be taken to prevent such incidents in the future?

☐ [] []
Yes No

none to date
(Comments or Clarification)

- h. All closure and long-term care costs estimates and any changes that are made in these estimates?

☒ []
Yes No

with revised closure plan
(Comments or Clarification)

3. General Site Location (NR 181.42(2)) - Is the facility located in:

a. A floodplain?

☐ Yes ☒ No

(Comments or Clarification)

b. A wetland?

☐ Yes ☒ No

(Comments or Clarification)

c. A critical habitat?

☐ Yes ☒ No

(Comments or Clarification)

For Department Use

III. Facility Status Evaluation

A. Facility Classification Based on District Verification: Storage

Signature: Samuel Amadio Date: 6/2/88

This facility is also subject to regulation as a:

_____ exempt treatment facility (specify) _____

☒ transporter

_____ generator - large quantity > 1000 kg.

_____ generator - acute toxics > 1 kg.

☒ generator - small quantity > 100 kg.

_____ generator - small quantity < 100 kg.

_____ small quantity off-site accumulation facility

_____ large quantity off-site accumulation facility

For Department Use

SED
DNR District

W1D980795181
EPA ID Number

Attachment 1
Hazardous Waste Facility Inspection
Form Attachment on
Use and Management of Containers
(NR 181.43(8), Wis. Adm. Code)

A. General Information:

Facility Name: Commerce Industrial Chemicals, Inc.

Facility Location: 5701 W. Woolworth Ave

City/Town/County Milwaukee, WI 53218

DNR District Inspector: P. Mylotta Inspection Date: 6/2/88

B. Facility Standards:

Note: Attachment 1 must be completed for sites using containers including small quantity generators, generators (including treatment and disposal facilities that are generators but have not applied for a storage interim license/variance) and interim licensed or final licensed storage facilities.

1. Are all the containers which are used to store hazardous waste in good condition? (NR 181.43(8)(a))

☒ []
Yes No (Comments or Clarification)

2. Are containers made or lined with materials which are compatible with the waste in them? (NR 181.43(8)(g))

☒ []
Yes No (Comments or Clarification)

3. Are containers stored closed, except when it is necessary to add or remove waste? (NR 181.43(8)(b))

☒ []
Yes No (Comments or Clarification)

4. Are containers opened, handled and stored in such a way as to prevent leaks or ruptures? (NR 181.43(8)(c))

☒ []
Yes No (Comments or Clarification)

5. Are containers inspected weekly for leaks and defects?

☒ []
Yes No (Comments or Clarification)

6. Are the inspections mentioned in #5 above recorded into:

- a. For generation sites, including small quantity generators, an inspection log or summary, which includes the date and time of inspection, the name of the inspector, a notation of the observation made, and the date and nature of any repairs or other remedial actions?

[] [] _____
Yes No (Comments or Clarification)

- b. For storage facilities, a facility inspection log, which includes the date and the time of inspection, the name of the inspector, a notation of the observation made, and the date and nature of any repairs or other remedial actions?

[X] [] _____
Yes No (Comments or Clarification)

NOTE: These records shall be kept for at least 3 years from the date of inspection.

7. If the facility stores ignitable or reactive waste, are the containers at least 50 feet (15 meters) from the facility property line? (NR 181.43(8)(d))

[X] [] _____
Yes No (Comments or Clarification)

8. Are incompatible wastes stored in separate containers?

[] [] NOT APPLICABLE
Yes No (Comments or Clarification)

9. Are empty containers washed prior to adding incompatible waste? (NR 181.43(8)(f))

[] [] NOT APPLICABLE - although containers are rinsed.
Yes No (Comments or Clarification)

10. Are containers of incompatible waste separated or protected from each other and other incompatible wastes in tanks, piles or surface impoundments by physical barriers such as a berm, dike, wall or sufficient distance? (NR 181.43(8)(e))

[] [] NOT APPLICABLE
Yes No (Comments or Clarification)

Comments to Memo by COB Friday

DRAFT

E

2669

ENFORCEMENT RESPONSE POLICY

October 14, 1986 Draft Revision

I. Introduction

In December of 1984, the Office of Solid Waste and Emergency Response released the first RCRA Enforcement Response Policy (ERP). This document set forth a scheme for classifying RCRA violations and violators, provided detailed guidance on timely and appropriate enforcement response to these categories of RCRA violators, and delineated conditions for EPA enforcement action in authorized states.

The ERP set forth an approach for strengthening the RCRA Enforcement Program. The policy recognized the fact that there were not sufficient resources to address all instances of noncompliance with the same level of effort, and called for concentration of resources on the most serious violators, those called High Priority Violators. High Priority Violators were required to receive penalties, either by issuing an order with a penalty, or, in the case of states without administrative penalty authority, by referring the case to a judicial authority or to the Agency.

Also, the policy espoused the concept of expeditiously escalating an action when compliance was not achieved. The Enforcement Response Policy thus set forth a timeline that indicates at what point a stronger action must be taken, and in the case of High Priority Violators, eliminates this step in favor of immediate formal enforcement action (e.g., complaints, referrals, etc.) with penalties.

The intent of the ERP was to establish an approach for strengthening the RCRA enforcement program by concentrating efforts on the most serious violators and by ensuring that these violators receive timely and appropriate enforcement. After approximately two years of guidance implementation, it is clear that the program has made significant strides in enforcing against the more serious violators, particularly in the areas of ground-water monitoring, closure/post-closure, and financial responsibility requirement violations. This period of policy implementation has provided the program with the opportunity to evaluate the policy and determine the need for modifications.

This revised Enforcement Response Policy does not represent a change in Enforcement Program goals. The goal of the RCRA Compliance Monitoring and Enforcement Program remains the attainment and maintenance of a high rate of compliance within the regulated community through timely, frequent, visible, and effective enforcement actions against serious violators. This continues to mean that the Agency and the States must exercise enforcement against violators in a consistent and expeditious manner.

Finally, the policy lays out instances when the Agency will take direct action in authorized States.

The revised RCRA Enforcement Response Policy supersedes the guidance set out previously in the December 1984 Enforcement Response Policy.

The Enforcement Response Policy provides guidance only on civil actions - both administrative and judicial. Further, it addresses only responses to violations of RCRA requirements. Use of §3013 to compel monitoring, testing and analysis and §7003 for addressing situations that may present imminent hazards to human health or the environment is set out in the policies on "Issuance of Administrative Orders under Section 3013 of the Resource Conservation and Recovery Act" (9/26/84) and "Issuance of Administrative Orders Under Section 7003 of the Resource Conservation and Recovery Act" (9/21/84). Use of §3008(h) for addressing releases at interim status facilities is discussed in "RCRA Section 3008(h): The Interim Status Corrective Action Authority" (12/16/85).

The policy and procedures set forth in this document and internal office procedures adopted pursuant to this document are intended solely for the guidance of employees of the Environmental Protection Agency and State Enforcement Agencies. They are not intended to nor do they constitute rulemaking by the Agency, and may not be relied upon to create a right or a benefit, substantive or procedural, enforceable at law or in equity, by any person.

The Enforcement Response Policy is organized along the following lines:

- o Relationship To Other Agency Policy and Guidance
- o Enforcement Definitions and Responses
- o Establishment of Priorities
- o EPA Action in Authorized States
- o Examples of Violation Classification

SECTION II

RELATIONSHIP TO OTHER AGENCY POLICY AND GUIDANCE

The RCRA Enforcement Response Policy does not stand alone. It should be used in conjunction with the following policy and guidance which, together with the ERP, establish the structure of the RCRA enforcement program:

Agency-Wide Policy/Guidance

- o Agency Operating Plan - Sets the broad policy and planning directions of the Agency. (Issued annually)
- o Implementating the State/Federal Partnership in Enforcement: State/Federal Enforcement Agreements (Revised August 8, 1986, referred to as Policy Framework). Calls for enforcement agreements with the States and provides general guidance in the following areas:
 - oversight criteria and measures for assessing good compliance and enforcement program performance
 - criteria for direct federal enforcement
 - notification and consultation protocols
 - State reporting requirements.

RCRA-Specific Policy/Guidance

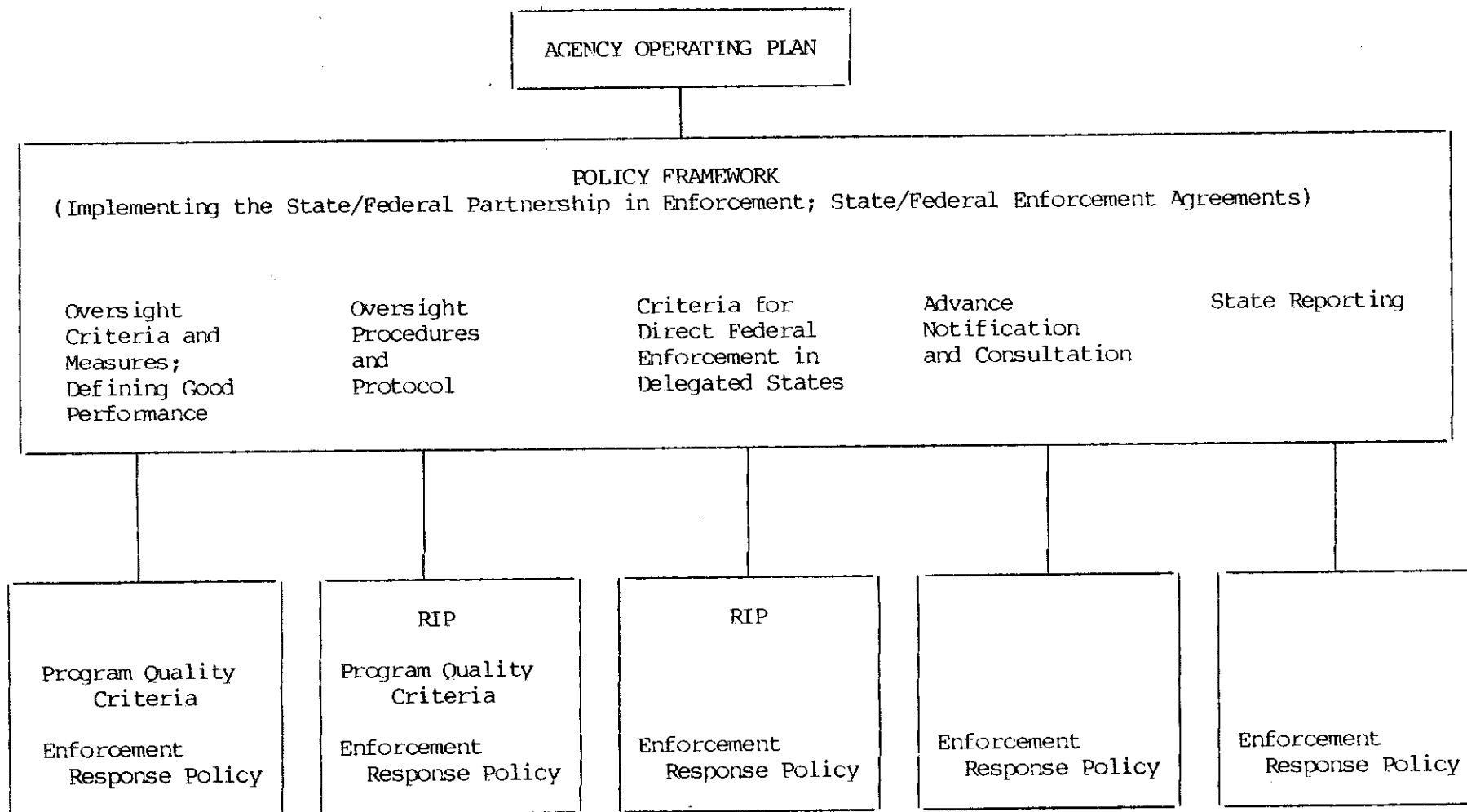
- o RCRA Implementation Plan (RIP) - Supplements the Agency Operating Plan by outlining, in more detail, RCRA directions. Sets reporting and tracking requirements for Class I violations and significant noncompliers. (Issued annually)
- o National Criteria for a Quality Hazardous Waste Management Program Under RCRA (Issued July 1986) (National Quality Criteria) Defines "timely enforcement action" by setting out timeframes for taking enforcement action against two types of violators -- high priority and Class I. (These timeframes are minimally acceptable goals for action. The Regions and States are urged to agree upon more stringent timeframes in their grants or enforcement agreements). Describes, in general, appropriate responses.

The interrelationship of these policy and guidance documents is best expressed in terms of their organizational hierarchy within the Agency. First, the Agency Operating Plan, as stated above, is a broad policy and planning document used for determining directions for the entire Agency. The Policy Framework is also a broad document, but one which is specifically directed at the implementation of all enforcement programs in the Agency. Next, the RIP and the National Quality Criteria along with this Enforcement Response Policy are RCRA-specific documents which together provide direction for implementing the RCRA enforcement program consistent with the Agency Operating Plan and the Policy Framework. The diagram on the following page helps illustrate the interaction between these documents, with particular emphasis on the RCRA-specific guidance documents (the RIP, National Quality Criteria and the Enforcement Response Policy) and how they relate to the general guidance areas in the Policy Framework.

A. Interrelationship Between the Enforcement Response Policy and the National Criteria for a Quality Hazardous Waste Management Program Under RCRA (National Quality Criteria)

The relationship between the Enforcement Response Policy and National Criteria for a Quality Hazardous Waste Management Program Under RCRA is as follows. The National Quality Criteria sets out timeframes in which two categories of violators, High Priority Violators and Class I Violators, should be addressed. It also describes the types of enforcement actions appropriate in response to such violators. However, it does not provide definitions of these violators, nor does it provide the Regional Offices and States with guidance on how to determine which of the several appropriate actions to choose in a specific situation. The Enforcement Response Policy addresses that issue. Further, while the National Quality Criteria describes generally what type of enforcement response would be considered timely and appropriate for various situations, it does not describe how EPA would respond if an authorized State failed to take action in a timely and appropriate manner. This document sets out a presumption that EPA will immediately begin case development work when it finds that State action is not proceeding expeditiously or that the State has made a response that is not appropriate to the situation.

RELATIONSHIP AMONG AGENCYWIDE AND RCRA ENFORCEMENT POLICY AND GUIDANCE DOCUMENTS



B. Interrelationship Between the Enforcement Response Policy and the RCRA Implementation Plan (RIP)

The Enforcement Response Policy is related to the RCRA Implementation Plan as it establishes a classification system that is fundamental to both the reporting procedures and the enforcement response procedures set out in the other documents. The RIP requires that the Regional offices and the States report "Class I" violations in the Hazardous Waste Data Management System (HWDMS) and the Strategic Planning and Management System (SPMS). Also, for Agency tracking purposes, the RIP defines a category of violators called "significant noncompliers". "Significant noncompliers" are those facilities that must be responded to as specified annually in the RIP. The compliance status of these violations will be tracked throughout the year in the SPMS. The Enforcement Response Policy defines "Class I violation", but does not focus on response to "significant noncompliers".

III. ENFORCEMENT DEFINITIONS AND RESPONSES

This section establishes the RCRA Enforcement Program's definition of classes of violations, violators, and the timely and appropriate enforcement response to each of these categories. The range of enforcement responses that are considered timely and appropriate action against these violators are also described in the National Quality Criteria and are discussed in more detail below.

These guidelines will be used by each Regional Office to negotiate with each State an "Agreement" that will specify, among other things, what constitutes timely and appropriate enforcement action in response to these categories of violators. In negotiating these Agreements, the Region should specify that the timeframes set forth in this document are program goals. More stringent timeframes may be negotiated, and should be encouraged where appropriate. However, timeframe flexibility, as provided for in Section III.C. may be included in these agreements.

A. Violation Definitions

The RCRA program employs several terms for defining priorities for enforcement response, used within this document as well as the National Quality Criteria and the RCRA Implementation Plan.

First, the program classifies individual violations into one of two classes:

Class I Violation - a violation that results in a release or serious threat of release of hazardous waste to the environment, or involves the failure to assure that groundwater will be protected, that proper closure and post-closure activities will be undertaken, or that hazardous wastes will be destined for and delivered to permitted or interim status facilities.

Examples of Class I violations meeting the specified criteria would include, but are not limited to:

- o Failure to properly install ground-water monitoring wells,
- o Failure of an owner/operator to close a facility properly or to develop closure or post-closure plans
- o Failure to establish and maintain appropriate financial assurance and insurance.

A more detailed list of those violations that should be designated as Class I are included in the Appendix. It should be noted, that Class I violations do not include those violations that are less serious, paper-work oriented violations that do not pose the threats described in the Class I violation definition. Such violations would be categorized as Class II violations and are described in more detail below with examples provided in the Appendix.

Class II Violation - any violation of RCRA requirements that does not meet the criteria listed above for Class I violations.

Examples of Class II violations would include, but not be limited to:

- o Failure to provide a written notice to the authorized state of a statistical increase when the owner/operator informed the State verbally within seven days and provided their assessment plan as required.
- o Failure to include an estimate of the expected year of closure when using the financial test, or to indicate total time for closure.
- o Failure to update closure cost estimates and adjust mechanism accordingly for changes which would decrease costs.
- o Failure to maintain financial assurance documentation at the facility when it is maintained at a corporate headquarters and/or Regional corporate office.

The distinction between Class I and Class II violations should be clearly understood; examples of Class I and Class II violations are provided in the Appendix.

B. Violator Definitions and Enforcement Responses

A RCRA handler is classified as a violator based upon the nature of its collection of violations and various other factors such as compliance history. The Enforcement Response Policy defines three categories of violators, High Priority, Class I, and Class II Violators and provides guidance on the timely and appropriate responses to be taken in each case.

1. High Priority Violator

Definition: A handler who:

- has one or more Class I violations of the groundwater, closure/post closure, and/or financial responsibility requirements, or,
- poses a substantial likelihood of exposure to hazardous waste or has caused actual exposure, or
- has realized a substantial economic benefit as a result of noncompliance, or
- is a recalcitrant or chronic violator (including a handler who is violating schedules in an order or decree).

The identification of High-Priority Violators is somewhat subjective and will require judgment on the part of the Regions or States. The High-Priority Violator criteria do not place any burden of proof on the Regions or States. The criteria are set out only to assist the Agencies in setting priorities for enforcement response and determining when penalty assessments are essential.

"A handler who has one or more Class I ground-water monitoring, closure/post-closure, and/or financial responsibility violations"

The first criteria, one or more Class I ground-water monitoring, closure/post-closure and financial responsibility violations only includes those violations that meet the Class I criteria (see III.A. Violation Definitions). Detailed examples of Class I violations are included in the Appendix.

"A handler who poses a substantial likelihood of exposure to hazardous waste or has caused actual exposure"

Handlers that have caused actual exposure are always considered High Priority Violators. Evaluating when a handler "...poses a substantial likelihood of exposure to hazardous waste..." should be done on the basis of the case-specific information and might consider the following, among other questions¹:

-
1. The Penalty Policy requires that the likelihood of exposure for each individual regulatory violation be evaluated separately. However, for the purposes of identifying High-Priority Violators, this policy recommends that in evaluating the likelihood for exposure, the Region or State look at the handler's collection of violations as a whole.

- Is human life or health potentially threatened by the situation?
- Are animals potentially threatened by the situation?
- Are any environmental media potentially threatened by the situation?
- What is the quantity of waste involved?

In examining whether there is a substantial likelihood of exposure posed by a violator, the focus should be on the potential for harm. Examples of violators that pose a substantial likelihood of exposure include, but are not limited to handlers that:

- o Fail to install an adequate ground-water monitoring system at a facility that overlies a nearby town's drinking water supply,
- o Fail to prevent entry of unauthorized people onto the active portion of a surface impoundment,
- o Fail to provide internal communications or alarm system where needed to provide emergency instructions (e.g., evacuation) to facility personnel.

"A handler who has realized a substantial economic benefit as a result of noncompliance"

While there is no firm threshold for determining whether a violator has triggered the second high-priority criterion, it is suggested that a threshold of \$5,000 be used as a guideline for the criterion of substantial economic benefit of noncompliance.² While it is difficult to identify specific sections of the regulations whose violation would reap substantial economic benefit, the following general areas are likely candidates for consideration:

-
2. The Penalty Policy defines a substantial economic benefit as a benefit \geq \$2,500. It is appropriate to set a higher dollar value as the threshold in this policy because the purpose is to set out a category of violators that demand response on an expedited schedule with a penalty assessment regardless of whether the enforcement authority has administrative penalty authority. The Penalty Policy, on the other hand, establishes a threshold to ensure that if a penalty is assessed it at least offsets any economic benefit that may have accrued, but not to determine whether action should be taken or which violators should be addressed first. Again, the Penalty Policy considers each regulatory violation separately whereas this policy looks collectively at all of a handler's violations.

- o failure to properly install ground-water monitoring wells,
- o failure to initiate assessment monitoring,
- o failure of a land treatment facility owner/operator to monitor the unsaturated zone,
- o failure of an owner/operator to close a facility properly or to develop closure or post-closure plans,
- o failure of an owner/operator to establish and maintain a financial assurance instrument,
- o failure of an owner/operator to submit a timely and complete Part B application,
- o failure of an owner/operator to install a secondary containment system at a storage facility,
- o failure of a facility to begin ground-water corrective action, *when ordered to do so under 3008(h) or 3009(v) or (u).*
- o disposal at an unpermitted facility, *l. disposal ban*
- o shipment of hazardous waste, by a generator, to an unpermitted facility.

"A handler who is a recalcitrant or chronic violator (including a handler who is violating schedules in an order or decree)"

Repeated recalcitrance or chronic violations by a handler always characterize a handler as a High Priority Violator. Although this criterion appears somewhat subjective, this determination is frequently made by program offices based on response to site inspections, and enforcement actions. Again, this criterion should be evaluated based on case-specific information, and should consider the following, among other questions:

- Does the facility willingly comply with all appropriate information requests, whether of a program or enforcement nature?
- Does the facility make good faith efforts to meet enforcement schedules, whether in an NOV, warning letter, consent decree, or order not due to circumstances beyond the facility's control?

- Does the facility have a history of repeated Class I and/or Class II violations that indicate a general unwillingness to comply with applicable requirements?

Examples of handlers that are recalcitrant or chronic violators include, but are not limited to handlers that:

- o fail to adhere to schedules in an order or decree when not agreed to by the State or EPA,
- o repeatedly fail to provide information requested by the appropriate regulating agency,
- o repeatedly have Class I and/or Class II violations.

Enforcement Response:

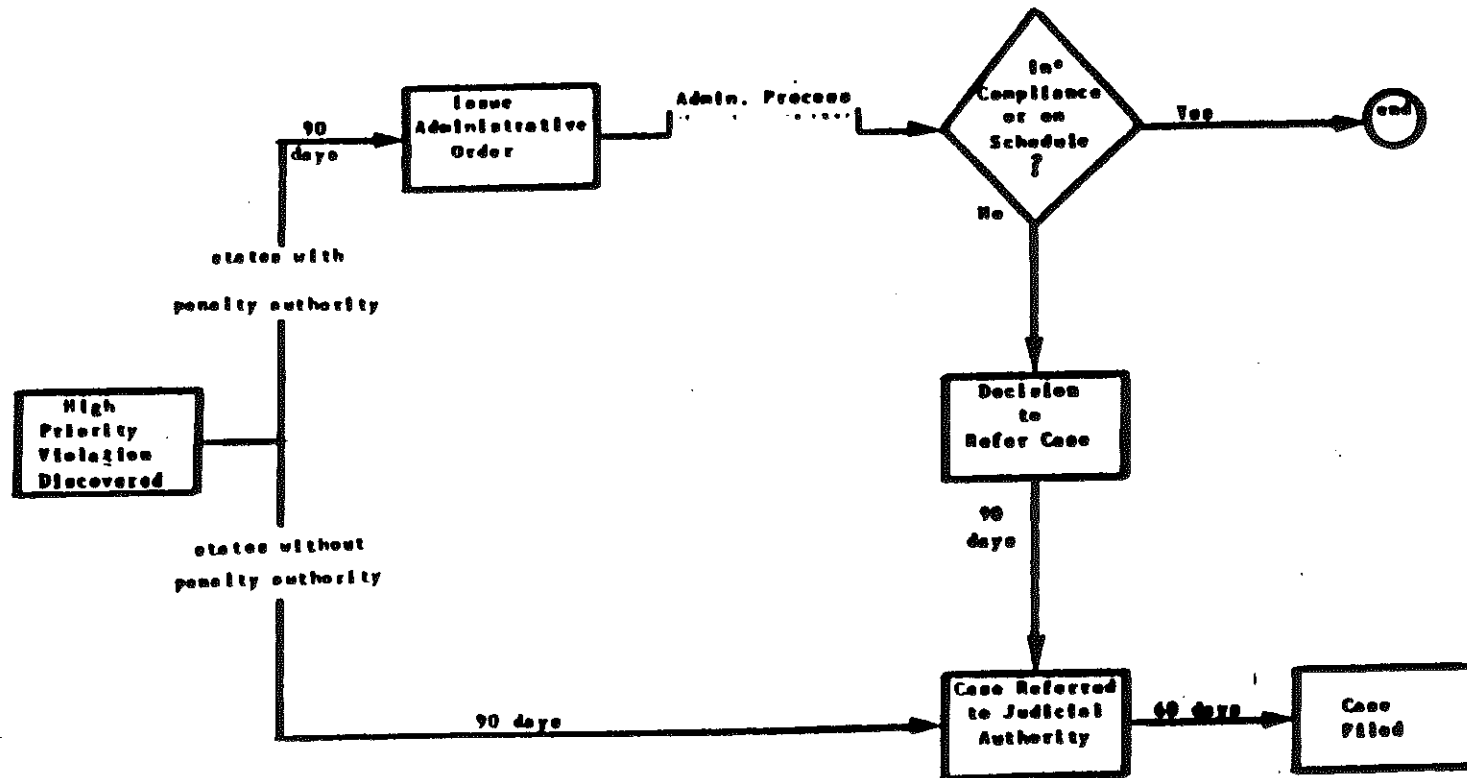
The Regions or States should respond to High Priority Violators by issuing Administrative Orders (Complaints) or referring judicial actions within 90 days of the discovery of the violation(s). (See Section III.C. Timeframes.) In addition to requiring compliance on an expeditious schedule, the Regions or States should assess penalties against High Priority Violators. States that do not have administrative penalty authority will need to address High Priority Violators by taking judicial action or through case referral to EPA to issue the administrative Complaints with penalties.

In deciding whether to respond with an Administrative Order or with a judicial referral, the first consideration is whether the State has administrative penalty authority. States that do not have this authority will need to refer High Priority Violators to their Attorneys General or other officials responsible for bringing judicial actions or request that EPA issue an administrative order with penalties. In making this decision, the State and the Region should consider the handler's compliance history and culpability. While administrative actions generally proceed more quickly than judicial actions, there are many instances in which judicial action is more appropriate. If the handler is a chronic or repeated violator and administrative action has not been successful in deterring repeated violations or if there are other reasons to believe that compliance with an administrative order is unlikely, the Region or States may choose to seek relief in the courts. Similarly, court action may be appropriate in the case of a handler that is in violation of a compliance schedule in an order, agreement or decree. Judicial referrals are suggested when a handler's conduct must be stopped immediately to prevent irreparable injury, loss or damage to human health or the environment.

9/0 PA?
= AG?

TIMELINE FOR ENFORCEMENT ACTIONS

HIGH PRIORITY VIOLATIONS



- Handlers on a compliance schedule will be monitored to ensure conformance with the schedule. Escalated enforcement actions will be taken if a handler is not in compliance within 30 days of the compliance schedule date.

Time required for administrative processing is in addition to the days indicated on the timeline. Pre-hearing negotiations should not generally continue beyond 90 days from issuance of an initial Administrative Order.

2. Class I Violators

Definition:

A handler with one or more Class I violations who is not a High Priority Violator.

Response:

The appropriate response to a Class I Violator is the issuance of a Notice of Violation (NOV), warning letter, or other similar notification within 30 days of violation discovery; or the issuance of an Administrative Order, referral, or judicial complaint within 90 days of violation discovery (i.e., if the Region or State chooses to issue an Administrative Order or refer the case immediately instead of taking less formal action, then the timeline for High Priority Violators should be followed). (See Section III.C. Timeframes) If the initial action is an NOV, warning letter, or other similar notification, and it does not result in either final compliance or in an enforceable compliance schedule within 90 days, a decision must be made to issue an Order or refer a judicial complaint. The Region or State has an additional 60 days to issue an Administrative Order or 90 days to refer a judicial complaint.

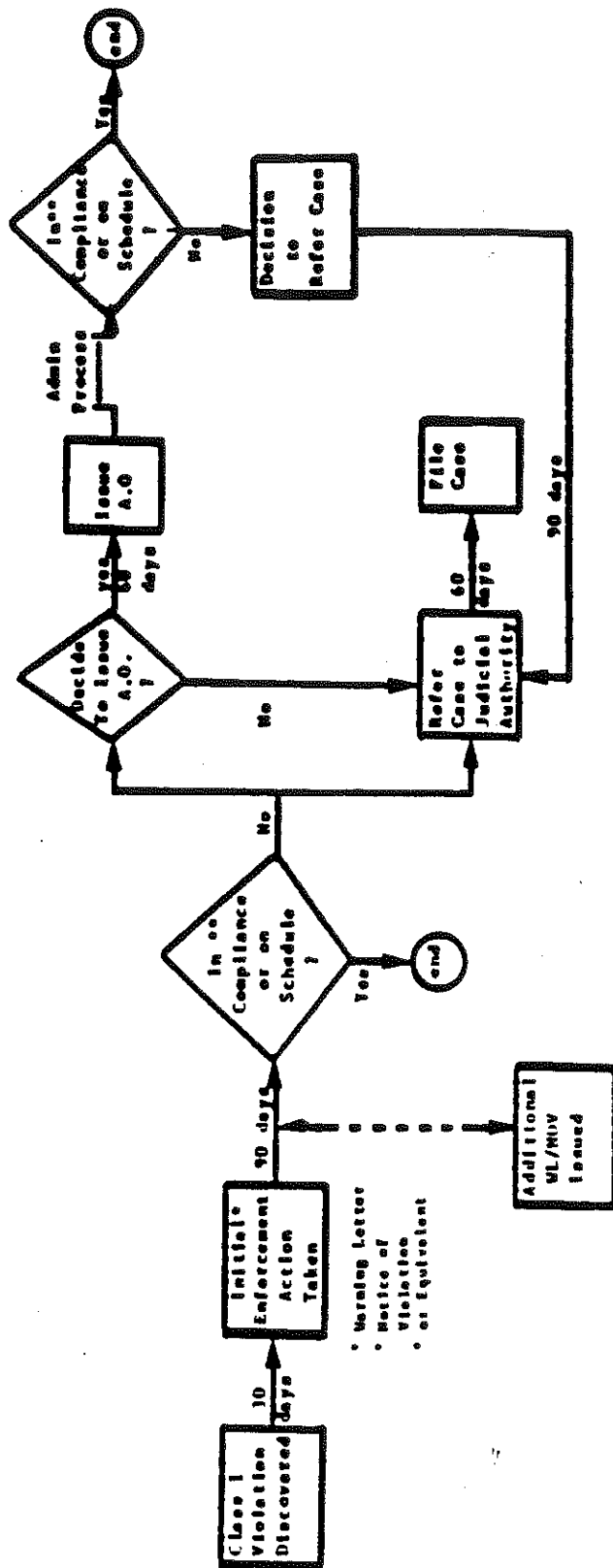
For a Class I Violator, however, an Administrative Order is generally the most effective response. Where EPA is the primary enforcement Agency, the initial enforcement response to a Class I Violator should generally be an Administrative Order with penalties.

At their discretion, this response is also recommended for authorized States that have the statutory authority to assess administrative penalties and to issue Administrative Orders directly, without any prior NOV or warning letter. These States must decide in each case of a Class I Violator whether to begin with an Order or with an NOV or similar notice. In general, the use of NOV's and warning letters by such States is recommended only in cases where the State believes that the NOV or warning letter will itself lead to compliance within the required timeframe. If a warning letter or NOV is not expected to result in compliance and is not required by State law, the State should go directly to an Administrative Order. States that are required to precede orders and referrals with NOV's, warning letters, or some other type of notification must do so in response to Class I Violators.

It is acceptable for a State to initially address a Class I Violator with an NOV or similar response or an attempt to negotiate an enforceable agreement with the violator. In fact, it is expected that such action will frequently result in compliance or the negotiation of an enforceable agreement that incorporates a compliance schedule. If, however, such an action does not result in compliance or in the negotiation of an enforceable schedule within 90 days following its issuance, an administrative order or judicial referral must be initiated. The timeline allows an additional 60 days for the development and issuance of an Administrative Order or 90 days for referral of a judicial complaint.

TIMELINE FOR ENFORCEMENT ACTIONS

CLASS I VIOLATIONS



* If the Region or State chooses to issue an Administrative Order (AO) or refer the case immediately instead of taking less formal action, then the timeline for High Priority Violation should be followed.

** Handlers on a compliance schedule will be monitored to ensure conformance with the schedule. Escalated enforcement actions will be taken if a handler is not in compliance within 30 days of the compliance schedule date.

Time required for administrative processing is in addition to the days indicated on the timeline. Pre-hearing negotiations should not generally continue beyond 90 days from issuance of an Initial Administrative Order.

Refers to an optional action.

3. Class II Violators

Definition:

A handler who has only Class II violations who is not a High Priority Violator.

Response:

While EPA and most authorized States have the authority to respond to any Subtitle C violation with an order or referral, a Class II Violator will normally receive a warning letter as the initial response. If the warning letter does not result in expeditious compliance, normally within 30-60 days of issuance, the Regional Office or authorized State should consider whether the violation warrants issuing an order. In cases involving large numbers of Class II violations, repeated Class II violations, or any other case the enforcement authority considers serious, the handler should be carefully evaluated to determine whether the handler meets any of the High Priority Violator criteria, therefore requiring issuance of an Administrative Order with penalties.

C. Timeframes

The Agency believes that the enforcement timeframes set forth in this document are reasonable and should be met in virtually all cases. However, the Agency also recognizes that circumstances may exist where the established enforcement timeframes set forth in this document will either prove too generous or too brief. In cases where the timeframes prove too generous, e.g., cases involving immediate endangerment to human health and the environment, the Agency expects that immediate action will be taken. In those rare cases where the established timeframes are too brief, it is not the Agency's intent to sacrifice the quality of orders or referrals, or the overall compliance strategy for the facility for the sake of timeliness. Timely enforcement action is one of the most critical components of an effective enforcement program; however, cases may exist where legitimate circumstances create a need for more flexibility in the timeframes.

Therefore, within the framework of this guidance, flexibility may be necessary regarding the timeliness of an enforcement response, particularly regarding the following timeframes:

- o the timeframe from inspection to violation discovery;
- o the timeframe from for formal enforcement action in the case of High Priority Violators; and,
- o the timeframe from referral to filing, in the case of civil referrals, both to the AG and to DOJ.

In cases where these timeframes will be exceeded due to the case specific circumstances described below, the States and Regions must develop an "early warning system" for determining when case resolution will extend beyond the established timeframes. In such cases, when timely enforcement action (as defined by this policy) will not be feasible, the State must provide documentation to the Region within 70 days of the inspection of the reason for the delay and an alternative schedule for case resolution must be provided (subject to Regional approval based on Enforcement Response Policy guidelines). In cases where the Region is taking enforcement lead, the Region must maintain a record within 70 days of inspection of the reason(s) for the delay when timeframes will be exceeded along with an alternative schedule for case resolution.

In all cases where the State or Region deviates from ERP timeframes, the States and Regions must closely track case progress and adhere to their alternative case resolution schedule. In addition, in the event that the Region does not find the State's reason for the delay within Enforcement Response Policy guidelines, the Region may decide to overfile.

1. Violation Discovery Timeframe

A violation is discovered as of the date when the case development staff determines through review of the inspection report and/or data (e.g. laboratory reports), that a violation has occurred. The violation discovery date established in the Program Quality Criteria and restated here is 45 days from the date of inspection³.

Cases where circumstances may require greater than 45 days from inspection to violation discovery include cases where:

- o the laboratory analyzing samples taken from CMEs, Sampling Inspections, and/or Case Development Inspections does not return the results to the Region or State within 45 days from inspection.

3. Starting in 88, this date will be tracked on the CMEL and in the 2300 series of HWDMS.

- o analytical results of samples taken during a CME, Sampling Inspection or Case Development Inspection are inconclusive such that additional sampling and analysis is required for violation discovery,
- o inspection reports are not received by the State or Region in a timely manner (i.e., within 45 days of the inspection).

2. HPV Formal Enforcement Timeframe

In the case of High-Priority Violators, 90 days from violation discovery is the established timeframe for issuance of an administrative order or judicial referral. In the majority of cases involving High Priority Violators, the 90 day timeframe should be met as it provides adequate time for case development in most situations.

Cases where circumstances may require greater than 90 days from violation discovery to Administrative Order with penalties or judicial referral include cases involving:

- o bankruptcy, where additional research may be required to determine facility financial status, and
- o violations of more than one environmental statute (e.g. RCRA/TSCA, RCRA/CERCLA, RCRA/CWA, etc.).

3. Referral to Filing Timeframe

In cases involving either state referral to the AG or DA, or EPA referral of a case to the Department of Justice, 60 days from case referral to filing is the established timeframe. In a large number of cases, where the referral has been adequately prepared and no additional information is needed, the 60 day timeframe from referral to filing is reasonable.

Cases where circumstances may require greater than 60 days from civil referral to case filing include cases where:

- o sampling and/or additional sampling is requested by the Attorney General's office or DOJ for additional case development, and
- o the Attorney General or DOJ determines that the case referred involves criminal violations.

While the Agency recognizes that circumstances may arise where the timeframes specified above may be insufficient to prepare and initiate the appropriate enforcement responses specified in this policy, it is also recognized that instances may occur where immediate action is appropriate. In the following cases, the Agency expects that the Region or the State will take appropriate enforcement action much more expeditiously than provided for by the Enforcement Response Policy established timeframes:

- o any case where a release or other violation poses, or may present an immediate threat to human health and the environment.
- o other situations where immediate action is most appropriate, such as cases in which the Agency or the State seeks to immediately halt improper construction or installation.

SECTION IV

ESTABLISHING PRIORITIES

The Regions' and States' priority targets should be, first, High-Priority Violators, then Class I Violators, and then Class II Violators. Enforcement actions need not be taken for all High-Priority Violators before any action is initiated against Class I Violators. Because the different categories of violators merit different levels of response with varying resource requirements, most Regions and States will want to respond to a mix of the various categories of violators. This is an acceptable approach although the Regions and States should keep in mind that oversight activities will focus first on High-Priority Violators. Therefore, the emphasis must be on those handlers.

SECTION V

EPA ACTION IN AUTHORIZED STATES

States with authorized programs have the primary responsibility for ensuring compliance with the RCRA program requirements. Nevertheless, Section 3008 of RCRA specifically provides EPA with the authority to take enforcement action in authorized States.

It is EPA's policy to take enforcement actions in authorized when:

- o the state asks EPA to do so, or
- o the State fails to take timely and appropriate action.⁴

The previous section described what is considered timely and appropriate action in response to various categories of violators. The timelines set out in that chapter establish trigger points at which EPA should initiate action if the State response is not considered adequate. If the State has failed to issue an order or complete a referral within (90) days after discovery of a High-Priority Violator (or (60) days after deciding to issue an order to a Class I Violator), the Regional Office should notify the State that EPA will take action. The Regional Office may also choose to assess a penalty against a High-Priority Violator if the State's action failed to include one.⁵ The Memorandum of Agreement (MOA) or Grant Agreement between EPA and each State should set out the process for providing notice to the State. The Regional Office may need to conduct its own case development inspection, and prepare additional documentation before proceeding to initiate an action. Only if the State has made reasonable progress in returning the facility to compliance or in processing an enforcement action should the Region hold off federal response when the timeline is not met by an authorized State.

4. The Policy Framework identifies an additional circumstance under which EPA will take action in an authorized State - a case that would established a legal precedent - although such cases are expected to arise infrequently.

5. EPA may also consider assessing a penalty if it feels that the penalty assessed by the State was inadequate , as judged according to the State's penalty policy or procedures established by the State for determining penalty amounts. Before initiating any penalty-only action, EPA must weigh the benefit of that action with the need to take action against handlers that are out of compliance with applicable requirements.

To track State progress against the "timely" and "appropriate" criteria, the Regional Offices should depend on the Compliance and Enforcement Logs that are submitted monthly and on conversations with appropriate State personnel. The Regional Offices should review the Logs each month and determine not only which cases have failed to meet the (30), (60), and (90) day triggers but also which cases that are in earlier stages are not proceeding expeditiously. *?How?*

APPENDIX I

EXAMPLES OF VIOLATION CLASSIFICATION

<u>Violation</u>	<u>Classification</u>
Failure of a handler to meet a compliance schedule in an Order, decree, agreement of permit.	I
Construction of a new facility without a permit.	I
Failure of the generator to comply with requirements relating to the manifest system.	I
Failure of a generator to meet the packaging, labeling, marking or placarding requirements.	I
Failure of a transporter to comply with the requirements for immediate action and clean up of discharges.	I
Failure of the transporter to comply with requirements relating to the manifest system.	I
Failure of an owner/operator to conduct required wastes analyses.	I
Failure of an owner/operator to properly handle ignitable, reactive or incompatible wastes.	I
Failure to install operate and maintain and adequate ground-water monitoring system, including failure to begin assessment monitoring when required under the interim status regulations.	I
Self-granting, by an owner or operator, of an unjustifiable waiver from ground-water monitoring requirements.	I
Failure to meet the closure performance standard.	I
Failure to develop a complete and adequate closure plan.	I
Failure to meet specified standards for post-closure care.	I
Failure to develop a complete and adequate post-closure plan.	I
Failure to develop an adequate estimate of closure and post-closure costs.	I

Violation	Classification
Discrepancies in wording such that the financial instrument is ineffective.	I
Improper cancellation of a bond by the suerty.	I
Cancellation or reduction of value, without R.A.'s consent, of suerty bond or insurance policy.	I
Failure to include information regarding all facilities that are covered by the same instrument.	I
Failure of obtain or maintain coverage for sudden accidental occurrences.	I
Failure to obtain or maintain coverage for sudden accidental occurrences.	I
Failure to obtain or maintain coverage for nonsudden accidental occurrences.	I
Failure of owner/operator to submit a timely and complete Part B application.	I
Storage of wastes in containers that are not in good condition or have begun to leak.	I
Failure of an owner/operator to meet the requirements regarding storage of ignitable, reactive or incompatible wastes.	I
Failure to provide for proper containment of leachate or runoff from a waste pile.	I
Failure of an owner/operator to meet applicable general operating requirements.	I
Failure of a land treatment owner/operator to meet the requirements regarding food chain crops.	I
Failure of a land treatment owner/operator to prepare and plan for monitoring of the unsaturated zone or to monitor the unsaturated zone.	I
Failure of landfill owner/operator to properly dispose of containers.	I
Failure of a thermal treatment facility to meet the requirements regarding open burning and waste explosive.	I

<u>Violation</u>	<u>Classification</u>
<u>Failure to submit the biennial report.</u>	II
<u>Failure of an owner/operator to provide notice regarding international shipments of hazardous wastes.</u>	II
<u>Failure to provide required notices regarding transfers of ownership of foreign shipments of waste.</u>	II
<u>Failure to maintain copy of closure plan at the facility.</u>	II
<u>Failure to meet the timeframes set out for facility closure.</u>	II
<u>Failure to provide a written notice to the authorized state of a statistical increase when the owner/operator informed the State verbally within seven days and provided their assessment plan as required.</u>	II
<u>Failure to include an estimate of the expected year of closure when using the financial test, or to indicate total time for closure.</u>	II
<u>Failure to update closure cost estimates and adjust mechanism accordingly for changes which would decrease costs.</u>	II
<u>Failure to maintain financial assurance documentation at the facility when it is maintained at a corporate headquarters, regional corporate office.</u>	II
<u>Submission of a photocopy rather than the original of financial documentation.</u>	II
<u>Failure to adequately document training where verification can be provided.</u>	II
<u>Failure to document arrangements with local authorities where the facility can otherwise prove that it has made arrangements.</u>	II
<u>Omissions in the facilities operating record that would not impair ability to properly track the handling waste or respond to emergencies.</u>	II

LAW OFFICES OF
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Mr. Ronald L. McCallum
Chief Judicial Officer
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Attention: Fielding Lamanson, Jr.

Re: Commerce Industrial Chemicals
Docket No. WID-980795181
RCRA Appeal No. 85-4

Dear Mr. McCallum:

We are writing to inform you that petitioner Northwest Side Community Alliance and Commerce Industrial Chemicals have reached a tentative agreement resolving their differences with respect to the above-referenced matter. We are enclosing a copy of the settlement agreement. The agreement has not yet been signed because petitioner City of Milwaukee has not yet had an opportunity to ratify the settlement through the appropriate legislative procedure, which we expect to be completed in late July. We ask that these proceedings be held in abeyance until execution of the settlement agreement in late July or early August and through the preliminary steps of the parties' stipulated settlement. See paragraphs B and D specifically. After execution of the parties' settlement and completion of these preliminary steps the Northwest Side Community Alliance will withdraw its petition for review.

Thank you for your continued cooperation in this matter.

Very truly yours,

PREVIANT, GOLDBERG, UELMEN,
GRATZ, MILLER & BRUEGGEMAN, S.C.

BY:

Marianne Goldstein Robbins
MARIANNE GOLDSTEIN ROBBINS

MGR:Imd
enc.



STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY
CIVIL DIVISION

NORTHWEST SIDE COMMUNITY ALLIANCE
INC., A Wisconsin non-profit
corporation,

Petitioner,

v.

Case no. 670276

THE DEPARTMENT OF NATURAL
RESOURCES,

Respondent.

CITY OF MILWAUKEE,

Petitioner,

v.

Case no. 670795

THE DEPARTMENT OF NATURAL
RESOURCES,

Respondent.

STIPULATION AND ORDER TO HOLD PROCEEDINGS IN ABEYANCE

STIPULATED SETTLEMENT

Without the admission or adjudication of any issue of fact or law herein, IT IS HEREBY STIPULATED by and between the parties, petitioners by their respective attorneys, Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., by Marianne Goldstein Robbins, and Grant F. Langley, City Attorney, by Linda Uliss Burke, Assistant City Attorney, and respondents by their respective

attorneys, Bronson C. LaFollette, Attorney General, and Maryann Sumi, Assistant Attorney General, and Quarles & Brady by Arthur A. Vogel, Jr., that these actions be held in abeyance upon the following terms and conditions:

- NOT so!
It would
be.
- A. Upon execution of this stipulation, Commerce Industrial Chemicals shall petition the United States Environmental Protection Agency (EPA) to amend the hazardous waste permit issued on September 27, 1985, to eliminate authorization for treatment by incineration. It is recognized that EPA may conclude that amendment is not necessary to the extent the permit is no longer effective now that EPA has granted the Wisconsin Department of Natural Resources (DNR) final authorization to operate the federal hazardous waste program effective January 31, 1986. 51 Fed. Reg. 3783 (January 30, 1986). In this case CIC will request a written determination from the EPA and DNR that the EPA permit has no effect.
- B. Upon execution of this stipulation, Commerce Industrial Chemicals shall withdraw that portion of its hazardous waste permit application on file with the Wisconsin Department of Natural Resources seeking authorization for treatment by incineration.
- C. Notwithstanding the obligations of Paragraphs A and B, Commerce Industrial Chemicals shall be entitled to seek issuance of necessary state, federal, county and city permits for the hazardous waste storage activity as described in its current state and federal permit applications.
- D. Upon execution of this stipulation, petitioners and CIC shall request that the United States Environmental Protection Agency hold in abeyance its review of petitioners for review filed by the Northwest Side Community Alliance and Cari Backes on October 29, 1985, and by the City of Milwaukee on October 28, 1985, regarding the permit issued by the Regional Administrator on September 27, 1985.
- E. Upon receipt of the following: (1) proof that the hazardous waste permit application on file with the DNR has been amended to exclude incineration; and (2) proof that the EPA permit issued on September 27, 1985 has been amended to eliminate authorization for incineration or proof that
- MAJOR
Modification?
or
minor

such amendment is unnecessary for the reasons set forth in paragraph A. Petitioner shall withdraw the petitions for review identified in Paragraph D.

F. Upon proof that withdrawal of the petitions for review identified in Paragraph D has been acknowledged by EPA, a stipulation to dismiss this consolidated action shall be executed by the parties hereto upon the following terms and conditions:

1. Commerce Industrial Chemicals (CIC) shall not commence, nor seek approval to commence, incineration of "hazardous waste" as defined in Section NR 181.04(44), Wis. Adm. Code, at its facility located at 5611 Woolworth Avenue for a period of at least five (5) years from the date of execution of this stipulation. Should it seek necessary approvals to commence incineration at that site at any time thereafter, it shall first provide notice by certified mail to the Northwest Side Community Alliance, Inc. and the City of Milwaukee of its intentions.
2. Petitioners agree not to seek administrative or judicial review of steps taken by the Department of Natural Resources (DNR) in completing its review of CIC's application to operate a hazardous waste storage facility as long as such steps, and CIC's proposed storage operation itself are limited to the scope and description and comply with all restrictions and precautions set forth in the feasibility report dated November 24, 1981, the Resource Conservation and Recovery Act, Part B, Permit Application dated February 16, 1983 and supplements submitted between January 6, 1982 and September 28, 1984 by Commerce Industrial Chemicals and the conditions to the determination of feasibility issued by the Department of Natural Resources on May 6, 1985 and all approvals and conditions subsequently issued by the DNR so long as these approvals and conditions do not expand the scope and description or lessen the restrictions and precautions contained in the above identified documents. Nothing in this paragraph however, shall restrict petitioners from communicating directly with the DNR regarding CIC's application to operate a hazardous waste facility including but not limited to requesting information, offering comments and asking questions.

3. Upon request, the DNR agrees to provide Petitioners with all information available to it concerning the CIC hazardous waste storage facility application and whether the facility is in compliance with the applications and conditions set forth in Paragraph F.2. and the applicable DNR regulations.
4. Nothing in this stipulation shall bar the Petitioners from contesting DNR decisions with respect to permit applications for hazardous waste facilities other than the storage facility described above in Paragraph F.2. whether operated by CIC or others.
5. Nothing in this stipulation shall bar the Petitioners from pursuing the same issue raised herein if CIC decides to commence or seek approval for incineration after the time periods set forth in Paragraph F.1.
6. Nothing in this stipulation shall bar the Petitioners from contesting the renegotiation of EPA permit condition II.0 "Liability Requirements" by the EPA or the DNR for the time period beyond September 27, 1987.

Dated: _____

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Community Alliance

Dated: _____

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Return to Debus
4-6-87



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

REPLY TO THE ATTENTION OF:

16 JAN 1986

Mr. Ronald L. McCallum
Chief Judicial Officer
U.S. Environmental Protection
Agency
401 M. Street, S.W.
Washington, D.C. 20460

RE: Commerce Industrial Chemicals
Docket No. WID-980795181
RCRA Appeal No. 85-4

Dear Mr. McCallum:

Pursuant to your letter of November 21, 1985 U.S. EPA, Region V has prepared a response to the petitions which were filed by the City of Milwaukee and the Northwest Side Community Alliance, et al., seeking review of the aboved referenced permit. If you have any questions with regard to this matter, I request that you direct them to Mr. Robert E. Leininger, the Assistant Regional Counsel whom I have assigned to this case.

In accordance with your letter, I am also transmitting copies of the draft permit, final permit, comments, response to comments and the fact sheet.

Sincerely yours,

Robert Adamkus for
Valdas V. Adamkus
Regional Administrator

cc: Linda Uliss Burke, Esq.
Anthony Vogel, Esq.
Marianne Goldstein Robbins, Esq.

BEFORE THE ADMINISTRATOR OF THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)	
)	
COMMERCE INDUSTRIAL CHEMICALS, INC.)	RESPONSE OF RESPONDENT,
MILWAUKEE, WISCONSIN)	U.S. EPA, REGION V TO
)	PETITIONS FOR REVIEW
)	
WID 90795181)	
_____)	

NOW COMES the Respondent, United States Environmental Protection Agency, Region V, (U.S. EPA) in response to the petitions for review which were submitted by the Northwest Side Community Alliance and Cari Backes (hereinafter "NSCA") to the Administrator on October 29, 1985, and by the City of Milwaukee on October 28, 1985¹ seeking review of the permit decision which was issued by the Regional Administrator on September 27, 1985.

STATEMENT OF FACTS

CIC is the owner and operator of hazardous waste storage facility which, pursuant to 40 CFR Section 270.70, has qualified for interim status. On August 18, 1980, CIC, a distributor of petroleum solvents, alcohols and other industrial chemicals, most of which are manufactured by the Shell Oil Company, submitted a Notification of Hazardous Waste Activity. On November 14, 1980, the company submitted Part A of its Hazardous Waste Permit Application. On February 9, 1983 the facility submitted its RCRA Part B Permit Application which was reviewed

^{1/} Although the City of Milwaukee states that the Petition was mailed to this office on October 28, 1985, such petition could not be located. Consequently, a second copy was sent which was received on December 16, 1985.

by U.S. EPA, Region V. Following such review the Agency prepared a draft RCRA Part B Permit pursuant to 40 CFR Section 124.6 which was submitted for public comment on September 28, 1984 pursuant to 40 CFR Section 124.10. The public comment period was originally scheduled to be concluded on November 14, 1984, however, at the request of Cari Backes and other interested persons, the public comment period was extended an additional 30 days to December 14, 1984. On November 1, 1984, a public hearing was held in Milwaukee, Wisconsin to obtain comments on the draft permit. After the close of the public comment period, U.S. EPA submitted a response to the public comments and on September 27, 1985, the Regional Administrator issued a final RCRA Part B Permit to CIC.

The conditions of the permit will allow CIC to continue storing a maximum inventory of 396 fifty-five gallon containers of the following hazardous wastes at its facility: D001 (ignitable hazardous wastes), F003 (spent non-halogenated solvents), F005 (spent non-halogenated solvents), K086 (solvent washes) and F001 and F002 (spent halogenated solvents).

These spent chemicals are received by CIC as hazardous wastes from its customers who had originally purchased the chemicals as raw materials. CIC's current practice is to reclaim these spent chemicals if possible. Hazardous wastes which are not reclaimable are shipped off-site to an appropriate RCRA licensed disposal facility. The RCRA Part B Permit which

has been issued to CIC will allow the facility to incinerate the non-halogenated wastes which it is unable to reclaim so that it will not have to send such wastes to another facility for disposal. The permit provides that the facility may operate the incinerator at a maximum rate of 13 to 17 gallons per hour which is equivalent to the incineration of a maximum of two 55 gallon capacity drums of hazardous waste per day.

ISSUES PRESENTED

1. Whether permits issued by U.S. EPA pursuant to RCRA for hazardous waste facilities are subject to the environmental impact statement provisions of Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. §4321.

2. Whether U.S. EPA, must issue a RCRA Part B Permit to CIC, if the facility is in full compliance with Sections 3004 and 3005 of RCRA, 42 U.S.C. §6924 and §6925 and the regulations which have been promulgated pursuant thereto.

3. Whether certain conditions of the RCRA Part B Permit which was issued by U.S. EPA to CIC were based upon findings of fact or conclusions of law which were clearly erroneous or which involved an exercise of discretion or an important policy consideration which the Administrator should, in his discretion, review.

ARGUMENTS

I. THE RCRA PART B PERMIT WHICH WAS ISSUED BY U.S. EPA TO CIC IS NOT SUBJECT TO THE ENVIRONMENTAL IMPACT STATEMENT PROVISIONS OF SECTION 102(2)(C) OF NEPA.

In their Petitions for Review, NSCA and the City of Milwaukee claim that the Regional Administrator, in issuing the RCRA Part B Permit to CIC, relied heavily upon the Environmental Assessment which was conducted by the Wisconsin Department of Natural Resources (WDNR) and WDNR'S decision not to prepare an Environmental Impact Statement (EIS). The City states that it has challenged the propriety and accuracy of the WDNR's decision and assessment, and that such challenge is currently pending in the Circuit Court of Milwaukee County. The Petitioners, therefore request that the Permit be held in abeyance until disposition of such challenge. In addition, the City of Milwaukee claims that the Regional Administrator erroneously relied upon the WDNR's submissions and findings which lead to the decision that an EIS was not required. NSCA requests that the Administrator reverse the decision of the Regional Administrator and order an Environmental Impact Statement to be prepared.

U.S. EPA has promulgated a regulation which clearly addresses the issue of whether an EIS is required to be prepared for RCRA permits. 40 CFR Section 124.9(b)(6) states that all RCRA, UIC

and PSD Permits are not subject to the Environmental Impact Statement provision of Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. §4321. This Agency position is supported by case law as enunciated by the Federal Courts. In State of Maryland v. Train, 414 F.Supp. 116 (D.Md. 1976) U.S. EPA took the position that an Environmental Impact Statement is not necessary where the Agency undertakes environmentally protective regulatory activities and where its regulations do not provide that an EIS must be prepared. In addressing such issue the Court stated as follows:

The issue need not be labored. A host of cases support EPA's position based on functional equivalence. (Citations omitted)... Where federal regulatory action is circumscribed by extensive procedures, including public participation, for evaluating environmental issues and is taken by an Agency with recognized environmental expertise, formal adherence to NEPA requirements is not required unless Congress has specifically so directed.

Since U.S. EPA is not required to prepare an EIS, there is no reason for the Administrator to require that the Regional Administrator prepare an EIS for such permit, nor is there any reason to justify holding the permit decision in abeyance pending final determination of state EIS issues.

Although the federal RCRA permit which was issued by the Regional Administrator to CIC does not require the preparation of an EIS by the Agency, the State, pursuant to its own laws or regulations may impose additional requirements on CIC prior to

allowing the facility to operate its incinerator. This point is made clear in 40 C.F.R. Section 270.4(c) which states that the issuance of a permit does not authorize any infringement of State or local law or regulations. Such State requirements, however, are separate and independent from the Federal regulations and, therefore, they are inapplicable to any Federal determination as to whether a permit should be issued. Consequently, there is no basis for holding the Federal permit decision in abeyance pending a final determination on such state issues.

II. U.S. EPA IS NOT REQUIRED TO INCLUDE PERMIT CONDITIONS WHICH ARE MORE STRINGENT THAN OR IN ADDITION TO SECTIONS 3004 AND 3005 OF RCRA AND THE APPLICABLE REGULATIONS PROMULGATED PURSUANT TO SECTIONS 3004 AND 3005 OF RCRA.

The Petitions to Review of NSCA and the City of Milwaukee raise a number of issues concerning the conditions set forth in the permit which was issued by U.S. EPA to CIC. Many of these issues are related to conditions which are not required to be in RCRA permits pursuant to RCRA Sections 3004 and 3005 and the applicable regulations. Rather, the Petitioners state that the conditions of CIC's permit do not conform with the findings set forth in a document which was prepared by the U.S. EPA Science Advisor Board in April, 1985.

The statutory authority for U.S. EPA to issue RCRA permits is set forth in section 3005(c) of RCRA, wherein the statute states:

Upon a determination by the Administrator (or State if applicable), of compliance by a facility for which a

permit is applied for under this section with the requirements of this section and Section 3004, the Administrator (or the State) shall issue a permit for such facilities. (Emphasis supplied).

Pursuant to its authority under Sections 3004 and 3005 of RCRA, U.S. EPA has promulgated those regulations which have established the standards which are applicable to owners and operators of hazardous waste treatment, storage and disposal facilities and which relate to permits which are issued to such owners and operators. It is these regulations, in addition to Sections 3004 and 3005 of RCRA, which must be complied with and which form the basis for conditions which are required to be set forth in a RCRA permit. This Agency is not required to impose additional or more stringent permit conditions beyond those set forth in RCRA Sections 3004 and 3005 and the regulations promulgated pursuant thereto. Consequently, the Administrator should deny the Petitions to Review of NSCA and the City of Milwaukee to the extent that such petitions seek the imposition of RCRA permit requirements beyond those set forth in RCRA and the applicable regulations.

III. THE PERMIT WHICH WAS ISSUED TO CIC DOES NOT CONTAIN CONDITIONS WHICH ARE BASED UPON FINDINGS OF FACT OR CONCLUSIONS OF LAW WHICH ARE CLEARLY ERRONEOUS.

A. The conditions of the permit which was issued to CIC contain requirements for the control and monitoring of emissions from the facility which are no less stringent than the requirements which are set forth in RCRA and the applicable RCRA regulations.

1. NSCA, in paragraphs 9 through 13 of its Petition to Review, claims that the Permit does not provide accurate evidence concerning the actual emissions from the incineration process. In support of its position, the Petitioner raises several points.

First, it states that the use of destruction efficiency for selected POHC's does not provide an adequate analysis of the discharge from hazardous waste incinerators. In support of its position it quotes from a report which was prepared by the Science Advisory Board dated April, 1985 (hereinafter the SAB report). It is neither necessary nor appropriate for the Administrator to consider the findings in the SAB report as a basis for determining whether the permit was properly issued to CIC. As stated in Argument II above, U.S. EPA must issue the permit to CIC upon determining that it complies with RCRA Sections 3004 and 3005 and the applicable regulations promulgated pursuant thereto. It is those regulations which are controlling rather than the recommendations of the SAB report.²

The regulations which this Agency has promulgated specifically to address hazardous waste incinerators can be found in 40 CFR part 264 Subpart O, Sections 264.340 to 264.351 and 40 CFR 270.19 and 270.62. In Part V(C) of the permit (which is attached hereto as Exhibit A), carbon tetrachloride is designated as the applicable POHC pursuant to 40 C.F.R. 264.342. Part V(B)(1),

^{2/} It is worth noting that on page (i) of the SAB report there is a Notice which states in part as follows: "The content of this Report does not necessarily represent the views and policy of the Environmental Protection Agency."

in conformance with 264.343, requires that the incinerator achieve a destruction and removal efficiency of 99.99% for each POHC designated in the permit. Thus, the permit complies with the applicable regulations concerning destruction and removal efficiency and the Petitioner does not contend otherwise.

The second point which Petitioner raises concerning emissions from the incinerator is that the trial burn was of too short a duration. U.S. EPA, pursuant to its administration of the Clean Air Act, has had much experience in regulating the testing of incinerators to determine whether they are capable of meeting applicable performance standards. Under the Clear Air Act, the Agency has determined that the sampling time for a trial burn of an incinerator (referred to as a "test run" in the regulation) should be at least sixty minutes. 40 CFR §60.54. Although the Clean Air Act regulations are not directly applicable to RCRA permits, the rationale for requiring a minimum testing period of sixty minutes remains the same. Consequently, in its guidance for determining the adequacy of a trial burn, U.S. EPA requires a minimum of sixty minutes of sampling for a trial burn.

As part of its permit application process, pursuant to 40 C.F.R. 270.19(c), CIC submitted the results and other information concerning the trial burn which had been conducted on an incinerator which was virtually identical to the incinerator which CIC intends to use at its facility (Exhibit B). The trial burn was conducted over a period of 144 minutes, which is well within the range of acceptable sampling periods for such a

procedure.

Petitioner also contends that the trial burn should have been conducted under abnormal operating conditions. The purpose of the trial burn, however, is to establish the operating requirements which will ensure that the incinerator complies with the performance standards set forth in 40 C.F.R 264.343. Under the terms of the permit, CIC is allowed to operate the incinerator only when it is in compliance with the operating requirements. Since it is not allowed to operate during abnormal conditions, it would be pointless to conduct the trial burn during such abnormal conditions. Furthermore, condition V(D)(6) of the permit requires that the waste feed to the incinerator be automatically cut off when the incinerator deviates from the established operating conditions.

NSCA, claims that the sampling of stack emissions during the course of the trial burn was inadequate. During the course of the trial burn upon which CIC's permit was based, an analysis was conducted for hazardous waste constituents which are listed in 40 C.F.R. Part 261, Appendix VIII. The analysis was conducted on a number of such constituents for the purpose of determining whether they could be burned to an acceptable DRE, while meeting other pertinent performance standards. (See waste characteristics section of Exhibit B). Based on such analyses, it was determined that carbon tetrachloride was the

appropriate Principal Organic Hazardous Constituent (POHC) under 40 C.F.R. 264.342. This POHC thus became the constituent which must be incinerated to a destruction and removal efficiency (DRE) of 99.99% as required by 40 C.F.R. 264.343(a). The analysis of the stack emissions during the course of the trial burn was in full compliance with all of the applicable regulations. Consequently, Petitioner incorrectly asserts that such analysis is inadequate.

Petitioner also claims that the permit does not provide for the analysis of an adequate number of gases. Pursuant to 40 C.F.R. 270.19(c)(6) and 264.345(b)(1), carbon monoxide is the only stack exhaust gas for which monitoring is required. The permit which was issued to CIC requires it to monitor for carbon monoxide and, therefore, it is full compliance with the applicable regulations.

2. In addition to the issues raised above by NSCA, the City of Milwaukee, in its Petition to Review, has raised issues concerning the control and monitoring of emissions from the CIC facility.

First, the City states that since the 99.99% DRE of the incinerator during the trial burn was founded on the premise that the incinerator would be operating at optimum efficiency at all times, there is no protection during the times that the

incinerator is not functioning properly. As stated above on page 10, the permit which was issued to CIC only allows the incinerator to be operated in compliance with the operating requirements. In order to ensure that it is only operated at this "optimum efficiency", permit condition V(D)(6) requires that the waste feed to the incinerator be automatically shut off when the incinerator deviates from the established operating conditions.

The City also objects to the fact that no air pollution control devices are required to be placed on the incinerator. Respondent agrees that no such devices are required by the permit conditions. Pollution control devices are not required to be on hazardous waste incinerators pursuant to the applicable regulations promulgated under RCRA. Consequently, the permit is in full compliance with such regulations. (See Argument II, above).

The last point which the City raises concerning the control and monitoring of emissions is that the test burn did not take into account the variability of the types of waste which will be burned at the CIC facility. The primary purpose of a test burn, of course, is to determine the ability of the incinerator to burn various types of hazardous waste during standard operating conditions to a DRE of 99.99%.³

During the test burn which was used to set the conditions for the CIC facility, the incinerator was able to achieve a DRE

^{3/} CIC's permit does not allow the facility to incinerate F020, F021, F022, F023, F026 or F027 hazardous wastes.

of 99.99% on carbon tetrachloride, which is one of the most difficult compounds in Part 261 Appendix VIII to incinerate. (See test burn report of Exhibit B). Consequently, pursuant to permit condition V(C), the facility is not permitted to incinerate any hazardous waste which is more difficult to incinerate (based upon heat of combustion) than carbon tetrachloride which is the designated POHC⁴. Prior to such incineration, the Permittee must test all wastes in accordance with the waste analysis plan (attachment 1 of the Permit). This will ensure that all hazardous waste burned by the incinerator achieves a DRE of at least 99.99%, as required by 40 CFR 264.343. Thus, contrary to the position taken by the City of Milwaukee, the variability of the wastes was taken into account during the trial burn and, based upon the results of the trial burn, the Permit has established conditions which will ensure that no wastes will be burned which do not meet the applicable performance standards.

- B. The permit conditions comply with all health and safety requirements which are applicable to the CIC facility.

On pages 7 through 9 of its Petition to Review, NSCA claims that the permit conditions do not provide adequate protection against system failure. First, Petitioner states that the permit does not provide for a community evaluation plan. Such a plan, however, is not required by the applicable

^{4/} During the incinerator shakedown period set forth in permit condition VI, even greater restrictions are placed upon the type of hazardous waste which may be incinerated.

regulations and is not, therefore, required to be among the conditions of CIC's permit.

It also claims that there is a lack of a provision for the identification of vehicles in the permit. In 40 C.F.R. Parts 262 and 263, the U.S. EPA has adopted the U.S Department of Transportation regulations which pertain to generators and transporters of hazardous waste. These regulations require that shipments of hazardous waste be appropriately marked, labeled and placarded. As long as CIC complies with such regulations, as required by its permit, it is in compliance with all applicable federal laws concerning the transport of hazardous waste. There are no other regulations pertaining to the identification of vehicles and, therefore, the permit is in full compliance with all applicable regulations.

Petitioner also claims that the permit does not provide protection in the event of chemical fires at the facility. CIC has an automatic sprinkler system and other emergency equipment on the site. In the event of any fire at the facility, an alarm would automatically sound which would alert the facility personnel to respond in accordance with its Contingency Plan (attachment 4 of Exhibit A). The local fire department, which has received a copy of CIC's Contingency Plan, is located less than one mile from the facility and would be alerted to any fire at the

facility by the alarm which would automatically be triggered. The alarm is tested on a daily basis and the sprinkler system is checked annually to make sure it can operate properly in the event of an emergency. In addition, all of the applicable health and safety regulations as set forth in 40 CFR 265 Subparts C & D have been included as conditions in Part II of CIC's permit.

Petitioner also objects to the permit conditions which require the separation of chemicals only by means of identification and a movable chain rather than an independent containment system or by a fire wall. These chemicals are not "incompatible waste" as defined by 40 C.F.R. 265.10, and are erroneously characterized as such by Petitioner. Consequently, separating them by identification and by the use of chains is appropriate. A fire wall is certainly not required by the regulations for the types of waste being stored by CIC.

Petitioner argues that there is no evidence to show that a containment system, which provides a maximum capacity of 10% of the storage capacity, is adequate. Section 264.175(b)(3) states that a containment system must have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater. The permit which was issued to CIC has this requirement as a condition and no further containment is required by the applicable regulation.

C. The Petitioner, NSCA claims that the conditions of the permit failed to take into account the location of the facility from the perspective of population density and local meteorologic conditions. The location standards for the issuance of RCRA permits are set forth in section 264.18. That section states that portions of new facilities where treatment storage or disposal of hazardous waste will be conducted must not be located within 61 meters (200 feet) of a fault which has been displaced in Holocene time. That section also places limitations on facilities located in a 100-year flood plain. The CIC facility is not located in a 100-year flood plain nor is it located in a political jurisdiction which is listed in Appendix VI and is, pursuant to the regulations, assumed to be in compliance with the requirement concerning seismic considerations. Thus CIC is in compliance with section 264.18 and no further siting conditions are required to be contained in its permit.

C. The permit which was issued to CIC requires the facility to fully comply with the applicable RCRA insurance requirements in accordance with a compliance schedule which is allowed by the regulations.

Petitioner NSCA, asserts that the permit which was issued to CIC impermissably allows the facility to commence operations without the requisite insurance coverage. Pursuant to 40 C.F.R. 264.147(a), the owner or operator of a facility must have and maintain liability coverage for sudden accidental occurrences in the amount of \$1 million per occurrence, with an annual

aggregate of \$2 million, exclusive of legal defense costs. CIC currently has comprehensive general liability coverage in the amount of \$500,000 per occurrence and \$500,000 annual aggregate. Due to conditions in the insurance market, the facility has been unable to obtain the extent of coverage required by 40 C.F.R 265.147(a). Consequently, pursuant to condition III(R), the Permittee is required to comply with the insurance requirements or demonstrate continued efforts to obtain such coverage. In accordance with the compliance schedule set forth in III(R), if the Permittee is unable to obtain such coverage within one year of the date of issuance of the permit, then this condition must be renegotiated.

40 CFR 270.33(a) states that a permit may, when appropriate, specify a schedule of compliance leading to compliance with the Act and regulations. Any such schedule must require compliance as soon as possible and, if a schedule of compliance exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement. Conditions III(O) and III (R), by requiring a demonstration of continued efforts to obtain the appropriate insurance coverage, make certain that such coverage is obtained as soon as it is available. If at any time following 90 days from the date of issuance of the permit, CIC is unable to demonstrate its continued efforts to obtain such insurance, then it would be in violation of this permit condition and the permit could be terminated pursuant to 40 CFR Section 270.43(a)(1). Condition III(R), by

providing a compliance schedule of one year, does not need to have interim dates in the compliance schedule. This compliance schedule is appropriate because at the time of issuance of the permit, conditions in the insurance market prevented CIC from obtaining the required coverage and the Agency believed that such coverage would be obtainable within one year.

The latest efforts of CIC to obtain insurance have revealed that such insurance may be obtained from members of an association entitled the Pollution Liability Insurance Association (PLIA).⁵ A risk assessment is currently being performed on the facility by an independent survey company (Risk Science International) so that CIC can apply for insurance through a member of PLIA. If, as expected, CIC is determined to be an acceptable insurance risk, a policy should be issued to CIC in early April, 1986.

Since CIC is required to comply with the applicable liability requirements pursuant to a compliance schedule which is allowed by the regulations, Petitioner is incorrect in stating that such conditions are not proper.⁶

^{5/} PLIA is an association of approximately twenty five insurance companies who will write liability coverage. As members of the association, they are insured by PLIA in the event that an insured makes a claim on the pollution liability aspect of its policy. PLIA will not provide coverage for facilities who are not found to be an acceptable risk pursuant to an independent inspection conducted by a company approved by PLIA.

^{6/} Petitioner cites 42 U.S.C. Section 6925(g)(2) in support of its position that this permit condition is improper. That section, however, only applies to research, development and demonstration permits under RCRA.

- D. The permit which was issued to CIC is not required to be conditioned upon the prior study of the long term effect that the incinerator will have on the soil, wildlife and population of the surrounding area.

Petitioner NSCA, claims that the CIC permit as presently conditioned should be denied because such permit should be conditioned upon prior study of the long term effects of such an incinerator on the soil, wildlife and population of the surrounding area. Such a condition is not required in any permit pursuant to Sections 3004 and 3005 of RCRA and the applicable regulations. Thus, as discussed in Argument II above, the Agency is not required to include such a condition in the permit.

- III. THE CONDITIONS OF THE PERMIT WHICH WAS ISSUED TO CIC DO NOT INVOLVE AN EXERCISE OF DISCRETION OR AN IMPORTANT POLICY CONSIDERATION WHICH THE ADMINISTRATOR SHOULD, IN HIS DISCRETION, REVIEW.

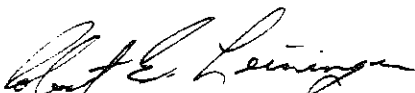
Both the City of Milwaukee and NSCA claim that the permit which was issued to CIC is based upon important policy considerations and the exercise of discretion which the Administrator, in his discretion, should review. Neither Petitioner specifically sets forth its basis for claiming that this permit involves an important policy consideration or exercise of discretion, however, it appears that their position relates to what they consider to be the precedential effect that this permit will have.

They state that there are numerous other facilities in the vicinity of the City of Milwaukee which will seek to obtain a permit if an incineration permit is granted to CIC. They appear to be under the misapprehension that, once U.S. EPA issues a permit to a facility in a given location, the Agency is more likely to grant permits to other facilities in such location. This, however, is not the case. Any decision as to whether a permit should be issued to a facility is based upon whether such facility has complied with the regulations which are applicable to the RCRA permitting process. There is nothing in the regulations which makes a permit either more or less obtainable by the fact that there is another permitted facility in the area. Petitioners do not point to any other aspect of the permit which involves an exercise of discretion or an important policy consideration and, therefore, there is no reason for the Administrator in his discretion to review such permit.

CONCLUSION

For the foregoing reasons, the Administrator should issue an order denying the Petitions for Review of NSCA and the City of Milwaukee.

Respectfully submitted,



Robert E. Leininger
Assistant Regional Counsel

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

Name of Permittee: Commerce Industrial Chemicals
Facility Location: 5611 W. Woolworth Ave., Milwaukee, Wisconsin
EPA Identification Number: WID980795181
Effective Date: 30 days after service of notice of decision
requested under 40 CFR 124.19.
Expiration Date: Ten (10) years after the effective date

Authorized Activities

Pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 USC §6901 et seq., commonly known as RCRA, the Hazardous and Solid Waste Amendments (HSWA) of 1984, and regulations promulgated thereunder by the U.S. Environmental Protection Agency (U.S. EPA) codified and to be codified in Title 40 of the Code of Federal Regulations), a permit is issued to Commerce Industrial Chemicals (hereafter called the Permittee), to operate a hazardous waste storage facility located in Milwaukee, Wisconsin at latitude 88° 58' 15.", and longitude 43° 08' 00". You are authorized to conduct the following hazardous waste management activities:

<u>X</u> Storage	<u>X</u> Treatment	<u> </u> Disposal
<u>X</u> Container	<u> </u> Tank	<u> </u> Injection Well
<u>X</u> Tank	<u> </u> Surface Impoundment	<u> </u> Landfill
<u> </u> Waste Pile	<u>X</u> Incinerator	<u> </u> Land Application
<u> </u> Surface Impoundment	<u> </u> Other	<u> </u> Ocean Disposal
		<u> </u> Surface Impoundment

Applicable Regulations:

The conditions of this permit were developed in accordance with the applicable provisions of 40 CFR Part:

<u>X</u> 261	<u>X</u> 264, Subpart G	<u> </u> 264, Subpart L
<u>X</u> 262	<u>X</u> 264, Subpart H	<u> </u> 264, Subpart M
<u>X</u> 264, Subparts A-E	<u>X</u> 264, Subpart I	<u> </u> 264, Subpart N
<u> </u> 264, Subpart F	<u>X</u> 264, Subpart J	<u>X</u> 264, Subpart O
<u>X</u> HSWA	<u> </u> 264, Subpart K	<u>X</u> 270

Permit Approval

The Permittee must comply with all terms and conditions of this permit. This permit consists of the conditions contained herein (including those in any attachments) and the applicable regulations contained in 40 CFR Parts 260 through 264 and 270 and 124 as specified in the permit and relevant provisions of HSWA. Applicable regulations are those which are in effect on the date of issuance of this permit (see 40 CFR §270.32(c)).

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This permit is based on the assumption that the information submitted in the permit application attached to the Permittee's letter dated February 9, 1983, and any subsequent amendments (hereafter referred to as the application) is accurate and that the facility will be constructed and operated as specified in the application. Any inaccuracies found in this information may be grounds for the termination or modification of this permit (see 40 CFR §270.42 and §270.43) and potential enforcement action. The Permittee must inform U.S. EPA of any deviation from or changes in the information in the application which would affect the Permittee's ability to comply with the applicable regulations or permit conditions.

On November 8, 1984, the Hazardous and Solid Waste Amendments of 1984 (the Amendments) were enacted to modify RCRA. Under Section 206 of the Amendments, all RCRA permits issued after the date of enactment must provide for corrective action for all releases of hazardous waste or constituents from any solid waste management unit, regardless of the time at which waste was placed in the unit. Based on information submitted by Permittee on March 12, 1985, and subsequent review of such information by the State of Wisconsin and U.S. EPA, it has been established that the Permittee has not released hazardous constituents from any solid waste management unit to the environment.

Issued this 27 th day of September, 1985

by Basil G. Constantelos
Basil G. Constantelos, Director
Waste Management Division

I. STANDARD CONDITIONS

A. EFFECT OF PERMIT

The Permittee is allowed to store and incinerate hazardous waste in accordance with the conditions of this permit. Any storage or incineration of hazardous waste not authorized in this permit is prohibited. Compliance with this permit constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA. Issuance of this permit does not convey property rights of any sort or any exclusive privilege; nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of State or local law or regulations. Compliance with the terms of this permit does not constitute a defense to any action brought under Section 3013 or Section 7003 of RCRA, Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a), commonly known as CERCLA), or any other law providing for protection of public health or the environment.

B. PERMIT ACTIONS

This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR 270.41, 270.42, and 270.43. The filing of a request for a permit modification, revocation and reissuance, or termination or the notification of planned changes or anticipated noncompliance on the part of the Permittee does not stay the applicability or enforceability of any permit condition.

C. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

D. DUTIES AND REQUIREMENTS

1. Duty to Comply. The Permittee shall comply with all conditions of this permit, except to the extent and for the duration such noncompliance is authorized by an emergency permit. Any permit noncompliance, constitutes a violation of RCRA and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or denial of a permit renewal application.

2. Duty to Reapply. If the Permittee wishes to continue an activity allowed by this permit after the expiration date of this permit, the Permittee must submit a complete application for a new permit at least ---180 days before this permit expires.
3. Permit Expiration. The duration of this permit shall be ten years from the effective date of the permit in conformance with the provisions of 40 CFR 270.50. This permit and all conditions herein will remain in effect beyond the permit's expiration date if the Permittee has submitted a timely, complete application (see 40 CFR 270.13-270.29) and through no fault of the Permittee the Regional Administrator has not issued a new permit as set forth in 40 CFR 270.15.
4. Need to Halt or Reduce Activity Not a Defense. It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
5. Duty to Mitigate. The Permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.
6. Proper Operation and Maintenance. The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facility or similar systems only when necessary to achieve compliance with the conditions of the permit.
7. Duty to Provide Information. The Permittee shall furnish to the Regional Administrator, within a reasonable time, any relevant information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Regional Administrator, upon request, copies of records required to be kept by this permit.
8. Inspection and Entry. The Permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:
 - (a) Enter at reasonable times upon the Permittee's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of this permit;

- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- ...(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by RCRA, any substances or parameters at any location.

9. Monitoring and Records.

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The method used to obtain a representative sample of the waste to be analyzed must be the appropriate method from Appendix I of 40 CFR Part 261. Laboratory methods must be those specified in Test Methods for Evaluating Solid Waste: Physical/Chemical Methods SW-846, (July, 1982) or an equivalent method as specified in the attached Waste Analysis Plan.
- (b) The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports and records required by this permit, and records of all data used to complete the application for this permit for a period of at least 3 years from the date of the sample, measurement, report or record. These periods may be extended by request of the Regional Administrator at any time and are automatically extended during the course of any unresolved enforcement action regarding this facility.
- (c) Records of monitoring information shall specify:
 - (i) The dates, exact place, and times of sampling or measurements;
 - (ii) The individuals who performed the sampling or measurements;
 - (iii) The dates analyses were performed;

- (iv) The individuals who performed the analyses;
- (v) The analytical techniques or methods used; and
- (vi) The results of such analyses.

10. Reporting Planned Changes. The Permittee shall give notice to the Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility.

11. Certification of Construction or Modification. The Permittee may:

1. Not commence the shakedown phases of operation for the hazardous waste incinerator; or
2. Not commence the incineration of Type II hazardous waste at the facility; or
3. Not continue storing hazardous wastes in containers; or
4. Not store hazardous waste in the incinerator feed tank until:
 - (a) The Permittee has submitted to the Regional Administrator by certified mail or hand delivery a letter signed by the Permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and,
 - (b)
 - (i) The Regional Administrator has inspected the modified and newly constructed facility and finds it is in compliance with the conditions of the permit; or;
 - (ii) The Regional Administrator has either waived the inspection or has not within 15 days notified the Permittee of his or her intent to inspect.

12. Anticipated Noncompliance. The Permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

13. Transfer of Permits. This permit may be transferred to a new owner or operator only if it is modified or revoked and reissued pursuant to 40 CFR 270.41(b)(2) or 270.42(d). Before transferring ownership or operation of the facility during its operating life, the Permittee shall notify the new owner or operator in writing of the requirements of 40 CFR Parts 264 and 270.
14. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
15. Twenty-four Hour Reporting. The Permittee shall report to the Regional Administrator any noncompliance with the permit which may endanger health or the environment. Any such information shall be reported orally within 24 hours from the time the Permittee becomes aware of the circumstances. This report shall include the following:
- (a) Information concerning the release of any hazardous waste which may endanger public drinking water supplies.
 - (b) Any information of a release or discharge of hazardous waste, or of a fire or explosion at the facility, which could threaten the environment or human health outside the facility. The description of the occurrence and its cause shall include:
 - (i) Name, address, and telephone number of the owner or operator;
 - (ii) Name, address, and telephone number of the facility;
 - (iii) Date, time, and type of incident;
 - (iv) Name and quantity of materials involved;
 - (v) The extent of injuries, if any;
 - (vi) An assessment of actual or potential hazard to the environment and human health outside the facility, where this is applicable; and
 - (vii) Estimated quantity and disposition of recovered material that resulted from the incident.

A written submission shall also be provided within 5 days of the time the Permittee becomes aware of the circumstances.

- The written submission shall contain a description of the noncompliance and its cause; the periods of noncompliance (including exact dates and times); whether the noncompliance has been corrected; and if not, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The Permittee need not comply with the five day written notice requirement if the Regional Administrator waives the requirement and the Permittee submits a written report within fifteen days of the time the Permittee becomes aware of the circumstances.

16. Other Noncompliance. The Permittee shall report all other instances of noncompliance not otherwise required to be reported above, at the time monitoring reports, as required by this permit are submitted. The reports shall contain the information listed in condition I.D.15.
 17. Other Information. Whenever the Permittee becomes aware that he failed to submit any relevant facts in the permit application, or submitted incorrect information in a permit application or in any report to the Regional Administrator, the Permittee shall promptly submit such facts or information.
- E. Signatory Requirement. All reports or other information requested by the Regional Administrator shall be signed and certified as required by 40 CFR 270.11.
- F. Confidential Information. The Permittee may claim confidential any information required to be submitted by this permit in accordance with 40 CFR 270.12.
- G. Documents To Be Submitted Prior to Operation. The Permittee must submit:
1. As-built drawings showing that a fence has been constructed around the incinerator in accordance with 40 CFR 264.14 and this permit. These drawings must be received before the shakedown phase of incineration may commence.
 2. As-built drawings showing that the incinerator and automatic waste feed cut-off systems have been constructed in accordance with this permit, and that the overflow return line has been installed in the incinerator feed tank. These drawings must be received before the shakedown phase of incineration may commence.

3. As-built drawings for the secondary containment system 45 days following the effective date of this permit.
 4. Calibration charts relating fan amperage or an alternative flow monitoring parameter to combustion gas volumetric flow rate and combustion zone measure shall also be submitted.
 5. Calibration charts relating waste feed in gallons/hr for the flow meter installed on the incinerator to comply with 40 CFR 264.345(b)(2). I.G.4 and 5. must be received by U.S. EPA prior to incineration of Type II hazardous wastes in order to comply with this permit.
 6. Documents demonstrating continuous compliance with the requirements of 40 CFR 264.147 and the requirements of 40 CFR 264.151, including the requirements to have and maintain liability coverage for sudden and accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs, or demonstrating continuing efforts to obtain this coverage within 90 days following the date of issuance of this permit.
- H. Documents To Be Maintained at Facility Site. The Permittee shall maintain at the facility, until closure is completed and certified by an independent registered professional engineer, the following documents and amendments, revisions and modifications to these documents:
1. Waste analysis plan as required by 40 CFR 264.13 and this permit.
 2. Personnel training documents and records as required by 40 CFR 264.16(d) and this permit.
 3. Contingency plan as required by 40 CFR 264.53(a) and this permit.
 4. Closure plan as required by 40 CFR 264.112(a) and this permit.
 5. Cost estimate for facility closure as required by 40 CFR 264.142(d) and this permit.
 6. Operating record as required by 40 CFR 264.73 and this permit.
 7. Inspection schedules as required by 40 CFR 264.15(b) and this permit.

II. GENERAL FACILITY CONDITIONS

- A. Design and Operation of Facility. The Permittee shall maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
- B. Required Notice.
- (1) The Permittee shall notify the Regional Administrator in writing at least four weeks in advance of the date the permittee expects to receive hazardous waste from a foreign source. Notice of subsequent shipments of the same waste having the same EPA hazardous waste number from the same foreign source is not required.
 - (2) When the Permittee is to receive hazardous waste from an off-site source <except where the Permittee is also the generator>, it must inform the generator in writing that it has the appropriate permits for, and will accept, the waste the generator is shipping. The Permittee must keep a copy of this written notice as part of the operating record. (See Condition II.L.1).
- C. General Waste Analysis. The Permittee shall follow the procedures described in the attached waste analysis plan, Attachment 1. The Permittee may accept for storage and treatment only those hazardous wastes generated by the manufacture and use of products distributed by or through Commerce Industrial Chemicals and shall not store or burn any other hazardous wastes. The types of hazardous wastes which can be accepted are listed in conditions III.A, IV.A, and V.C. The Permittee shall test all wastes in accordance with the waste analysis plan, Attachment 1.
- D. Security. The Permittee shall comply with the security provisions of 40 CFR 264.14(b)(1) and (c).
- E. General Inspection Requirements. The Permittee shall follow the inspection schedule, Attachment 2. The Permittee shall remedy any deterioration or malfunction discovered by an inspection as required by 40 CFR 264.15(c). Records of inspections shall be kept as required by 40 CFR 264.15(d).
- F. Personnel Training. The Permittee shall conduct personnel training as required by 40 CFR 264.16. This training program shall follow the attached outline, Attachment 3. The Permittee shall maintain training documents and records as required by 40 CFR 264.16(d) and (e).
- G. General Requirements for Ignitable, Reactive, or Incompatible Waste. The Permittee shall comply with the requirements of 40 CFR 264.17(a).

H. Preparedness and Prevention

1. Required Equipment. At a minimum, the Permittee shall equip the facility with the equipment set forth in the contingency plan, Attachment 4 as required by 40 CFR 264.32.
2. Testing and Maintenance of Equipment. The Permittee shall test and maintain the equipment specified in the previous permit condition as necessary to assure its proper operation in time of emergency.
3. Access to Communications or Alarm System. The Permittee shall maintain access to the communications or alarm system as required by 40 CFR 264.34.
4. Required Aisle Space. At a minimum, the Permittee shall maintain aisle space as required by 40 CFR 264.35.
5. Arrangements with Local Authorities. The Permittee shall attempt to make arrangements with State and local authorities as required by 40 CFR 264.37. If State or local officials refuse to enter into preparedness and prevention arrangements with the Permittee, the Permittee must document this refusal in the operating record.

I. Contingency Plan.

1. Implementation of Plan. The Permittee shall immediately carry out the provisions of the contingency plan, Attachment 4, and follow the emergency procedures described by 40 CFR 264.56 whenever there is a fire, explosion, or release of hazardous waste or constituents which threatens or could threaten human health or the environment.
2. Copies of Plan. The Permittee shall comply with the requirements of 40 CFR 264.53.
3. Amendments to Plan. The Permittee shall review and immediately amend, if necessary, the contingency plan, as required by 40 CFR 264.54.
4. Emergency Coordinator. The Permittee shall comply with the requirements of 40 CFR 264.55, concerning the emergency coordinator.

- J. Manifest System. The Permittee shall comply with the manifest requirements of 40 CFR 264.71, 264.72, and 264.76.

K. Recordkeeping and Reporting.

1. Operating Record. The Permittee shall maintain a written operating record at the facility in accordance with 40 CFR 264.73(a), (b)(1), (2), (3), (4), (5), (6), (7), and (8).
2. Biennial Report. The Permittee shall comply with the biennial report requirements of 40 CFR 264.75.

L. Closure.

1. Performance Standard. The Permittee shall close the facility as required by 40 CFR 264.111 and in accordance with the closure plan, Attachment 5.
 2. Amendment to Closure Plan. The Permittee shall amend the closure plan in accordance with 40 CFR 264.112(b) whenever necessary.
 3. Notification of Closure. The Permittee shall notify the Regional Administrator at least 180 days prior to the date he expects to begin closure.
 4. Time Allowed For Closure. After receiving the final volume of hazardous waste, the Permittee shall treat or remove from the site all hazardous waste in accordance with the schedule specified in the closure plan, Attachment 5. After receiving the final volume of hazardous waste, the Permittee shall complete closure activities in accordance with the schedule specified in the closure plan, Attachment 5.
 5. Disposal or Decontamination of Equipment. The Permittee shall decontaminate and/or dispose of all facility equipment as required by 40 CFR 264.114 and the closure plan, Attachment 5.
 6. Certification of Closure. The Permittee shall certify that the facility has been closed in accordance with the specifications in the closure plan as required by 40 CFR 264.115.
- M. Cost Estimate for Facility Closure. The Permittee's original closure cost estimate, prepared in accordance with 40 CFR 264.142(a), is specified in Attachment 5.
1. The Permittee must adjust the closure cost estimate for inflation within 30 days after each anniversary of the date on which the first closure cost estimate was prepared, as required by 40 CFR 264.142(b).

2. The Permittee must revise the closure cost estimate whenever there is a change in the facility's closure plan as required by 40 CFR 264.142(c).
 3. The Permittee must keep at the facility the latest closure cost estimate as required by 40 CFR 264.142(d).
- ...
- N. Financial Assurance for Facility Closure. The Permittee shall demonstrate continuous compliance with 40 CFR 264.143 by providing documentation of financial assurance, as required by 40 CFR 264.151, in at least the amount of the cost estimates required by permit condition II.M. Changes in financial assurance mechanisms must be approved by the Regional Administrator pursuant to 40 CFR 264.143.
- O. Liability Requirements. The Permittee shall demonstrate continuous compliance with the requirements of 40 CFR 264.147 and the documentation requirements of 40 CFR 264.151, including the requirements to have and maintain liability coverage for sudden and accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs, or demonstrate continued efforts to obtain such coverage.
- P. Incapacity of Owners or Operators, Guarantors, or Financial Institutions.
- The Permittee shall comply with 40 CFR 264.148 whenever necessary.
- Q. Waste Minimization. The Permittee must certify at least biennially that the volume and toxicity has been reduced to the maximum degree economically practicable and the method used to manage the waste minimizes risk to the extent practicable in accordance with 40 CFR 262.41 and 264.73.
- R. Compliance Schedule. The Permittee shall comply with Condition II.0 within 90 days from the date of issuance of this permit. If after one year following the date of issuance of this permit, the Permittee is unable to provide appropriate coverage, then this condition must be renegotiated in accordance with 40 CFR 270.41.

III. STORAGE IN CONTAINERS

- A. Waste Identification. The Permittee may store the following wastes in containers at the facility, subject to the terms of this permit; and 40 CFR 264.31:

<u>Waste Type</u>	<u>Waste Code</u>
a. Ignitable Wastes (Type I, Is)	D001
b. Spent halogenated solvents used in degreasing (Type III)	F001
c. Spent halogenated solvents (Type III)	F002
d. Spent non-halogenated solvents (Type I, Type Is)	F003
e. Spent non-halogenated solvents (Type II)	F005
f. Solvent washes and sludges used in the formation of printing ink (Type II)	K086

These wastes were indicated on page #3 of Form #3 of Part A of the Applicant's Hazardous Waste Permit Application, Attachment 6. The Permittee may store these wastes in 55-gallon capacity drums in the secondary containment area as described in Condition III.E, provided that the total quantity of drums stored, never exceeds 396 at any one time. Containers of Type III hazardous waste, which may not be incinerated, shall be physically separated from Type I and Type II hazardous wastes. Type Is hazardous waste shall be labelled and isolated from other hazardous waste after it is identified.

- B. Condition of Containers. If a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the Permittee shall transfer the hazardous waste from such container to a container that is in good condition or otherwise manage the waste in compliance with the conditions of this permit.
- C. Compatibility of Waste with Containers. The Permittee shall assure that the ability of the container to contain the waste is not impaired as required by 40 CFR 264.172.
- D. Management of Containers. The Permittee shall manage containers as required by 40 CFR 264.173.

- E. Containment. The Permittee shall construct a secondary containment system and maintain the containment system in accordance with the requirements of 40 CFR 264.175 as specified in the attached plans and specifications, Attachment 7.
- F. Special Requirements for Ignitable or Reactive Waste.
The Permittee shall not locate containers holding ignitable or reactive waste within 15 meters (50 feet) of the facility's property line.
- G. Special Requirements for Incompatible Waste.
1. Prior to placing incompatible waste or incompatible wastes and materials in the same container, the Permittee shall comply with 40 CFR 264.17(b) as specified in Attachment 7.
 2. The Permittee shall not place hazardous waste in an unwashed container that previously held an incompatible waste or material.
 3. The Permittee shall separate containers of incompatible wastes as indicated in the attached plans, Attachment 7, as required by 40 CFR 264.177(c).
 4. The Permittee must document compliance with III.G (1) and (2) as required by 40 CFR 264.17(c) and place this documentation in the operating record (condition II.K.1).
- H. Compliance Schedule. Within 45 days from the effective date of this permit, the Permittee shall construct a secondary containment system to comply with 40 CFR 264.175. Pursuant to the certification requirement of I.D.11, the storage of hazardous wastes in containers must cease if the containment system is not constructed within the required time frame.

IV. STORAGE IN TANKS

- A. Waste Identification. The Permittee may store the following hazardous wastes in the feed tank to the incinerator at the facility, subject to the terms of this permit, and 40 CFR 264.31:

<u>Waste type</u>	<u>Waste Code</u>
a. Ignitable Wastes (Type I, Is)	D001
b. Spent non-halogenated solvents (Type I, Is)	F003
c. Spent non-halogenated solvents (Type II)	F005
d. Solvent washes used in the formulation of printing ink (Type II)	K086

These wastes were indicated on page #3 of form #3 of Part A of the Permittee's Hazardous Waste Permit Application, Attachment 6. The incinerator feed tank has been fabricated to specifications listed in Attachment 8. These wastes shall not be pumped into the tank unless the overflow return line is operating.

- B. Design of Tanks. The Permittee shall maintain all tanks as required by 40 CFR 264.191, as specified in the attached plans and specifications Attachment 8. The Permittee shall maintain the minimum shell thickness of 0.098 inches at all times to ensure sufficient shell strength. The shell thickness of the tank must be determined annually, and records of testing must be maintained as part of the operating record.
- C. General Operating Requirements. The Permittee shall prevent overfilling of tanks, as required by 40 CFR 264.192(b), by the methods specified in Attachment 8.
- D. Special Requirements for Ignitable or Reactive Wastes.
1. The Permittee shall not place ignitable or reactive waste in a tank unless the procedures described in Attachment 8 are followed, as required by 40 CFR 264.198(a).
 2. The Permittee shall document compliance with IV.D.1 as required by 40 CFR 264.17(c) and place this documentation in the operating record (condition II.K.1).

3. The Permittee shall maintain buffer zones around covered tanks as specified in Attachment 8, as required by 40 CFR 264.198(b).

E. Special Requirements for Incompatible Wastes.

1. The Permittee shall not place incompatible wastes in the same tank or place hazardous waste in a tank that previously held an incompatible waste or material unless the procedures specified in Attachment 8 are followed, as required by 40 CFR 264.17(b).
2. The Permittee shall document compliance with IV.E.1 as required by 40 CFR 264.17(c) and place this documentation in the operating record (condition II.K.1).

F. Compliance Schedule.

Before hazardous waste may be stored in the incinerator feed tank, the Permittee shall install an overflow return line to comply with 40 CFR 264.192(b) and a separate storage tank and feed line to the incinerator for Type Is hazardous waste. Pursuant to the certification requirement of I.D.11, the storage of hazardous wastes in the incinerator feed tank shall not be permitted if the overflow return line and feed modifications are not installed.

V. INCINERATION

- A. Construction. The Permittee shall construct and maintain the incinerator in accordance with the attached plans and specifications, Attachment 8. The Permittee shall not feed hazardous waste to the incinerator until Conditions I.D.11 and IV.F, and V.E have been complied with.
- B. Performance Standard. The Permittee shall construct and maintain the incinerator so that, when operated in accordance with the operating requirements, specified in this permit, it will meet the following performance standards.
1. The incinerator must achieve a destruction and removal efficiency (DRE) of 99.99% for each principal organic hazardous constituent (POHC) designated in this permit for each waste feed. DRE shall be determined using the method specified in 40 CFR 264.343(c).
 2. The Permittee must control hydrogen chloride (HCl) emissions, such that the rate of emissions is no greater than the larger of either 1.8 Kg/hr or 1% of the HCl in the stack gas prior to entering any pollution control equipment.
 3. The incinerator must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter when corrected for the amount of oxygen in the stack gas in accordance with the formula specified in 40 CFR 264.343(c).
 4. Compliance with the operating conditions specified in this permit will be regarded as compliance with the above performance standards. However, evidence that compliance with such permit conditions is insufficient to ensure compliance with the above performance standards may be "information" justifying modification, revocation or reissuance of the permit pursuant to 40 CFR 270.41.
- C. Limitation On Wastes: Except during the periods specified in conditions VI.A and B, the Permittee shall incinerate the following hazardous wastes only as allowed by the terms of this permit; organic halogenated hazardous wastes shall not be incinerated.
- ° The POHC shall be carbon tetrachloride.
 - ° The Permittee shall not incinerate any hazardous waste having a heat of combustion less than 0.24 Kcal/gm, (carbon tetrachloride).
 - ° The ash content of the waste shall be no greater than 1.7 %

- ° The physical form of the waste shall be liquid having a viscosity not exceeding 11.1 cps at 25° C.
- ° No waste or combination of waste, as fed to the incinerator shall have a heating value of less than 590,000 Btu/hr. This corresponds to a minimum heating value of 6,552 Btu/lb in the hazardous waste at a minimum feed rate shall never exceed 15.0+ 15% gallons/hr.

D. Operating Conditions: Except during the periods specified in conditions VI.A and B, the Permittee shall feed Type I and Type II wastes described in condition V.C to the incinerator only under the following operating conditions:

1. Combustion temperature, measured as specified in condition V.D.7 shall be maintained between 1700°F and 2300°F.
2. Combustion gas velocity, measured as specified in Condition V.D.7, shall be no greater than 2850 ft/min (actual).
3. Stack gas concentration of carbon monoxide, measure as specified in condition V.D.7, shall not exceed 100 ppm.
4. During start-up and shut-down of the incinerator, Type I and II hazardous waste shall not be introduced into the incinerator. Type I hazardous waste may be used for start-up.
5. The Permittee shall control fugitive emissions from the combustion zone of the incinerator by maintaining combustion zone pressure lower than atmospheric pressure. A negative pressure of at least 0.10 inches of water must be maintained during operation.
6. The Permittee shall construct, maintain and calibrate the system specified below to automatically cut off Type I and II hazardous waste feed to the incinerator at the levels specified below when the operating conditions deviate from the limits established herein.

<u>System</u>	<u>Cut off limits</u>	<u>Calibration Frequency</u>	<u>Test Frequency</u>
a. Pump inlet pressure	> 20 in Hg vacuum	annually	monthly
b. Pump outlet pressure	> 50 psi	annually	monthly

<u>System</u>	<u>Cut Off Limits</u>	<u>Calibration Frequency</u>	<u>Test Frequency</u>
c. Air pressure switch	< 50 psi	annually	weekly
d. Main chamber temperature	< 1300°F > 1600°F	annually	daily
e. Secondary chamber temperature	< 1700°F > 2300°F	annually	daily
f. Waste feed rate	> 15.0 \pm 15% gallons/hr	annually	weekly
g. Combustion gas velocity	> 2850 ft/min (actual)	annually	weekly
h. Carbon monoxide	> 100 ppm	daily	daily

7. The Permittee shall monitor the facility as specified below:

<u>System</u>	<u>Purpose</u>	<u>Frequency of Monitoring</u>
a. Carbon Monoxide concentration exceeds 100 ppm	shut-down if stack exceeds 100 ppm	continuous
b. Secondary Chamber Temperature	maintain 1700-2300°F range	continuous
c. Main Chamber Temperature	maintain 1300-1600°F range	continuous
d. Waste feed rate	should not exceed 15.0 \pm 15% gallons per hour	continuous
e. Combustion gas velocity	should not be greater than 2800 ft/min (actual)	continuous

<u>System</u>	<u>Purpose</u>	<u>Frequency of Monitoring</u>
f. Manual override switch	check position must be in "Hazard- ous" position except when Type I waste is being burned	daily
8. Upon request of the Regional Administrator, the Permittee shall perform the tests required by 40 CFR 264.347(a)(3).		
9. The Permittee shall record and maintain the monitoring and inspection data as required by 40 CFR 264.347(d).		
10. The Permittee must cease feeding waste when changes in waste feed or operating conditions exceed limits designated in this permit.		
11. Type I hazardous waste is defined as Type I hazardous waste in which the absence of 40 CFR 261 Appendix VIII hazardous constituents has been verified by chemical analysis.		
12. The Permittee shall maintain and operate the incinerator to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment in accordance with 40 CFR 264.31.		
E. <u>Compliance Schedule:</u> Within 45 days from the date of issuance of this permit, the Permittee must revise the incinerator's control system such that waste feed cut-off will occur automatically whenever any operating condition specified in Condition V.D.6 deviates from the specified level. The Permittee shall also install 1) a carbon monoxide monitor system and alarm to satisfy the requirements of 40 CFR 264.347 and, 2) a device to indirectly monitor combustion gas velocity to comply with 40 CFR 345(b)(4). Pursuant to the certification requirement of I.D.11, the incineration of any hazardous waste shall not occur if these activities have not been completed.		

VI. INCINERATOR SHAKEDOWN PERIOD

- A. Shakedown Period. During the shakedown period (the period beginning with the initial introduction of Type I hazardous wastes into the incinerator), the Permittee shall comply with the following conditions:
1. Duration of Shakedown Period. The shakedown period shall not exceed 720 hours of operation when burning hazardous wastes. The Permittee may petition the Regional Administrator for one extension of the shakedown period for up to 720 additional hours. The Regional Administrator may grant the extension when good cause is demonstrated in the petition in accordance with 40 CFR 264.344(c)(1).
 2. Waste Feed Identification. During the shakedown period the Permittee may feed the following wastes at the facility, subject to the requirements of condition VI.A.3. The Permittee may incinerate only hazardous wastes which have been classified as Type I and Type Is. These wastes have met the exemption criteria under 40 CFR 264.340(b)(1) and (2). As described in Attachment 1, a portion of the Type I wastes shall be sampled and analyzed for 40 CFR 261 Appendix VIII hazardous waste constituents which might reasonably be expected to be present in the waste. If these constituents are found to be absent in the Type I waste, it will be reclassified as Type Is hazardous waste. Type Is hazardous waste shall be utilized as a start-up fuel for the incinerator. During the shakedown period, Type II hazardous waste shall not be incinerated. Type I hazardous wastes shall not be introduced into the incinerator during start-up and shutdown.
 3. Operating Conditions. Incinerator shakedown shall not begin until the requirements of Condition V.A have been met. Operating conditions V.D.1, 2, and 3 shall be met during the shakedown period. The Permittee shall monitor the facility during the shakedown period as described in V.D.7, and follow the procedures described in the Waste Analysis Plan, Attachment 1.
 - a. Upon request of the Regional Administrator, the Permittee shall perform the test required by 40 CFR 264.347(a)(3).
 - b. The Permittee shall record and maintain monitoring and inspection data as required by 40 CFR 264.347(d).

c. Except where otherwise stated, all conditions of Sections I, II, III, and IV of this permit must followed during the shakedown period.

d. the Permittee must cease operation when changes in waste feed or operating conditions exceed limits designated in this permit.

B. Compliance Schedule During the shakedown period, the Permittee shall construct calibration charts of the induced draft fan or other flow monitoring equipment. These charts will relate pressure drop, temperature, fan amperage, or other flow monitoring equipment parameters to combustion gas velocity or volumetric flow rate, and to combustion zone pressure. The Permittee must also develop calibration charts relating waste feed rate in gallons/hr for the flow meter installed on the incinerator to comply with 40 CFR 264.345(b)(2) and conditions I.G and V.C of this permit. These charts shall be submitted following completion of the shakedown period, but before the burning of Type II hazardous wastes will be permitted in accordance with condition I.G. In accordance with the certification stating that the shakedown period has been successfully completed, signed by an independent registered professional engineer, must be received by U.S. EPA before burning of Type II hazardous waste will be permitted.

ATTACHMENT 1
WASTE ANALYSIS

ATTACHMENT 1 WASTE ANALYSIS

C-1 Waste Analysis

Our inventory currently consists of 3 main types of waste and one sub type.

Type 1 is waste which is hazardous solely because of ignitability and contains no hazardous constituents as listed in CFR 40 Part 261 Appendix VIII. (This list is also found in Wis. DNR's NR 181.16 Table VI) The basis for this designation is that the flash point of this is below 140°F which puts this into the ignitable (D001) category. This material will be incinerated under the conditions as set forth in this permit, based on run #4 of the trial burn data.

Type 1s, a subtype, is a portion of type 1 waste which will be used as start up material for the incinerator. A composite sample will be taken from specifically segregated drums and checked for the presence of any Appendix VIII constituents which could reasonably be expected to be present. Once it has been verified that there are none or less than 100 PPM of any of the Appendix VIII constituents, it will be kept separate and used for the start of the incinerator. If any Appendix VIII constituents are found in concentrations higher than 100 PPM, the drums of waste represented by the composite sample will be incinerated under the conditions set forth in this permit based on run #4 of the trial burn data. Both type 1 and type 1s qualify for the exemption listed in 264.340 (b)(1)(i). See following comment.

Type 2 is waste thinner which is being stored prior to shipment for reclamation. Type 2 may also consist of still bottoms from the recovery of the waste thinner. The basis for the hazardous designation is that this waste usually contains hazardous constituents listed in Appendix VIII (Toluene, Methyl Ethyl Ketone, Isobutyl Alcohol, or Benzene) which would put this into the F005 category. It also has a flash point of less than 140°F which puts it into the ignitable (D001) category. The still bottoms will be incinerated under the conditions set forth in this permit based on run #4 of the trial burn data.

Type 3 is waste which consists solely of chlorinated solvents that are being stored prior to shipment for reclaiming. It is shipped to Acme Solvent Reclaimers where it is reclaimed for resale purposes. The basis for the hazardous designation is that this waste contains hazardous constituents as listed in Appendix VIII (Trichlorethylene, Tetrachloroethylene, Dichloromethane, or 1,1,1 Trichlorethylene) which would put this into the F001 category. Type 3 will never be incinerated.

C-1e (2) Incinerators - Data in Lieu of Trial Burn

In the comparison between waste we intend to burn and the data submitted in lieu of trial burn, it is shown that the waste used in the trial burn was more difficult to incinerate. The heating value of the waste used in the trial burn run #4 was 6552 BTU/lb. The heating value of the waste we intend to burn exceeds this value. The hazardous constituents of the trial burn waste include the spiking materials of Carbon Tetrachloride, Trichlorethylene, and Chlorobenzene. Based on the heat of combustion hierarchy, these are all more difficult to burn than the Toluene and Methyl Ethyl Ketone found in the waste we intend to burn. The waste in run #4 of the trial burn includes .87% chlorine. The chlorine content of the material we intend to burn is .31%. The ash content of the trial burn waste was 1.47%. The average ash content of the waste we intend to burn is 1.38%.

By using the data from the previous trial burn, we are in essence using an artificial waste feed which is more difficult to burn than the waste we intend to burn. As stated in the "Guidance Manual for Hazardous Waste Incinerator Permits", page 2-40 paragraph 3, "Using an artificial waste stream has the advantage of simplifying the analytical procedures because interference by organics other than POHC's is greatly reduced. This approach also allows the applicant to create a waste feed that is very difficult to burn. A successful trial burn conducted with such a waste feed results in permit conditions allowing the operator to accept a wide variety of wastes for treatment, perhaps eliminating any future need for permit modifications and additional trial burns".

Based on the data from the trial burn and the analysis of our waste, we recommend the following be designated as POHCs: Carbon Tetrachloride, Trichlorethylene, and Chlorobenzene because of their lower heat of combustion values, and Toluene and Methyl Ethyl Ketone because of their quantities in our waste. As stated in the "Guidance Manual for Hazardous Waste Incinerator Permits", page 2-39 paragraph 3, "Spiking the waste with less incinerable hazardous constituents provides the advantage of increasing the number of hazardous constituents that can be allowed by the permit. The permit writer should assume that if an incinerator can achieve a 99.99% DRE of a hazardous constituent, then it is also capable of achieving a 99.99% DRE of more easily incinerated constituents, if the same operating conditions are maintained. For example, if the applicant spikes the waste with chloroform or tribromomethane and 99.99% DRE is achieved, the permit may be written to allow burning of nearly all of the Appendix VIII hazardous constituents".

C-2 Waste Analysis Plan (answering C-2a,b,c,d, and e.)

Appendix 12 is a copy of our waste analysis plan which includes a copy of a "Sample Waste Profile Report". Within this plan and profile report are the parameter and rationale for the analysis and the test methods used to accomplish the analysis. The frequency and procedures used to inspect incoming shipments from off-site have also been incorporated into the plan. All sampling is done in accordance with the methods as described in CFR 40 Part 261 Appendix 1. Also Wis. DNR's NR 181 Appendix I.

WASTE ANALYSIS PLAN

Commerce accepts waste from those generators who have become our customers by purchasing our raw materials. Our sales force gains first hand knowledge of the waste generation process before any waste is considered. It is by this method that we fortify the rationale of materials being reasonably expected to be present in a waste. That is because we are familiar with the generator's operations and with the materials which could be found within the generator's plant.

1. Sample Identification

A sample of waste is received along with a completed "Waste Sample Profile Report". This sample is given a lab number which is the same as the date on which it was received. If more than one sample is received on a particular day, an alphabetic character follows the lab number. All samples are taken in accordance with CFR 40 part 261 Appendix 1 (EPA 600/2 80-018, Jan 1980). Also Wis. DNR's NR 181 Appendix I.

The generator may send a composite sample for analysis. However, if a problem is found with the composite sample, each drum will be sampled individually to determine within which drum the problem exists.

2. Initial Determination of Waste Type

Based on the waste profile report submitted by the generator, an initial determination is made as to how the waste will be typed, should we decide to accept it. Four specific areas of the waste profile report are instrumental in making this decision. These areas are: "What is the name of the waste", "By what process is it generated", "Does the waste contain any...", and "Does this waste contain any EPA hazardous substances according to the Clean Water Act". These four areas form the basis and the rationale for our determining the waste types.

To clarify this, we will look at each area individually:

What is the name of the waste? If the waste name is that of a listed Appendix VIII constituent, (or NR 181 Table VI) such as Toluene or 111 Trichloroethane, the waste is placed into type 2 or type 3 respectively. However, if the waste is named by characteristic such as Combustible Liquid NOS or Flammable Liquid NOS, it is placed into type 1 and we go on to the next question.

By what process is it generated? If the process listed shows that the material does come in contact with any Appendix VIII constituents, the waste is placed into type 2 or type 3, depending upon what those constituents are. However, if the process listed is one where the waste does not come in contact with Appendix VIII constituents, for example, Mineral Spirits which is used to clean oil or grease from metal parts, then none of the Appendix VIII constituents would reasonably be expected in the waste. Again, it is placed into type 1 and we go on to the next question.

Does the waste contain any...? If the section for halogens is the only one which is marked "yes", the waste is placed into our type 3. If any other section is marked "yes", we reject the waste and alert the generator that he will have to find alternate means by which to dispose of his waste. However, if all sections are marked "no", it is placed into type 1 and we go on to the next question.

Does the waste contain any EPA hazardous substances according to the Clean Water Act? If the answer is "yes" and the materials listed are Appendix VIII constituents, the waste is placed into type 2 or type 3, depending upon the constituent. If the section is marked "yes", and the materials listed are not Appendix VIII constituents, or if this section is marked "no", it is placed into type 1.

We now have our 3 initial waste types. Type 1 being waste which is hazardous due to its characteristic of ignitability, but which should show no amounts of Appendix VIII constituents. Type 2 being waste which we know contains some Appendix VIII constituents but none which are chlorinated. Type 3 being waste which we know contains Appendix VIII constituents which are chlorinated.

3. Final Determination of Waste Type Through Analysis

To verify the information submitted by the generator on the waste profile report, all samples will be analyzed for the organic compounds of Appendix VIII which are reasonably expected to be present. These analyses will be conducted on the waste 'as-received'.

Based on the nature of the businesses we service, the personal contact and knowledge we have of these businesses, and based on our records of their purchases, these constituents are: Dichloromethane, Tetrachloroethylene, Trichlorethylene, 111 Trichlorethane, Benzene, Isobutyl Alcohol, Methyl Ethyl Ketone, and Toluene.

Although all of type 1 qualifies for the exemption listed in CFR 40 264.340 (b)(1)(i), a portion will be tested for any Appendix VIII constituents which could reasonably be expected to be present. (These are listed above) Commerce will determine this experimentally using the procedure described in CFR 40 261.21 whether waste classified as Type 1, D001, meets the exemption criteria. A flash point determination on a representative composite of all drums in each shipment of Type 1 will be conducted. Once it has been determined that there are no Appendix VIII constituents present above the 100 PPM level, this portion will then be called type 1s and will be used as start up material for the incinerator. This will allow us to bring the incinerator to the temperatures required in this permit to burn type 2 waste. (That is based on run #4 of the trial burn data) If it does not meet the exemption criteria, it will be reclassified as Type 2.

If the analysis shows that the sample contains Benzene, Isobutyl Alcohol, Methyl Ethyl Ketone, or Toluene, it is placed in type 2. If this type 2 sample shows sufficient recovery value, the waste will be stored for future reclamation. If not, the waste will be incinerated under the conditions set forth in this permit based on run #4 of the trial burn data.

If the analysis shows the sample contains Dichloromethane, Tetrachloroethylene, Trichloroethylene, or 1,1,1 Trichloroethane, it is placed in type 3. If the sample shows sufficient recovery value, the waste will be stored for future reclamation. If not, the sample is rejected and the generator is alerted that he will have to find alternate means by which to dispose of this waste.

If the analysis shows that the sample is a type 1 or type 2 which has some of the chlorinated constituents of type 3 mixed in, the sample is rejected due to lack of incinerability under permit conditions and due to poor recovery value. The generator is then informed that we will not accept his waste and that he will have to use an alternate means of disposal.

The tests described above for Appendix VIII constituents which could reasonably be present in the waste will be performed on a representative composite of all drums of each presumed waste type in each shipment of hazardous waste from the same source. If analytical tests do not verify the initial determination, individual samples will then be required for analysis. Only those drums which meet our criteria will be picked up.

Prior to incineration, 10% of all type 1 waste will be analyzed for viscosity, ash content, chlorine content, and higher heating value, using methods established by ASTM and/or US EPA (e. ASTM-D-240-76, ASTM-D-808-81, ASTM-D-482-80, or SW-846). 20% of type 2 waste will be analyzed for the parameters described above, using the referenced test procedures.

Trichloromonofluoromethane, Tribromomethane, and Dichlorodifluoromethane are not reasonably expected to be found in the waste we receive. However, they do rate higher on the "Ranking of Incinerability of Organic Hazardous Constituents from Appendix VIII part 261 on the Heat of Combustion" than Tetrachloromethane (Carbon Tetrachloride) which is the highest ranking POHC allowed by this permit. (This is based on the results of run #4 of the trial burn data where a 99.99% DRE was achieved on the Tetrachloromethane). Therefore, we will, on a spot basis, check for these materials at a frequency of approximately 1 in every 20 samples received. If any of these three constituents is found at levels over 100 PPM, the sample will be rejected and the generator will be alerted that he will have to find alternate means by which to dispose of this waste. Should these materials be detected in a sample, all of that particular generator's samples will be subsequently checked for them.

4. Method of Analysis

All samples will be analyzed by the methods listed in EPA SW 846 "Test Methods for Evaluating Solid Waste Physical/Chemical Methods", ASTM-D240-76, ASTM-D808-81, or ASTM-D482-80. To do this we will be using a Perkin Elmer Sigma 3 gas chromatograph equipped with flame ionization detector, Sigma 10 Data Station, electron capture detector add on, and a purge and trap liquid sample concentrator. The columns and accompanying apparatus used will be those specified in SW 846 for the particular constituents. All procedures, sampling and handling, and quality control will be performed according to SW 846.

5. Waste Verification

When the waste itself is picked up, it is taken to a reception section of the hazardous waste storage area until the initial determination can be performed. Once this has been conducted, the waste is assigned a spot in the storage area according to its type.

The tests described above for Appendix VIII compounds which could reasonably be present in the waste will be performed on a representative composite of all drums of each presumed waste type in each shipment of hazardous waste from the same source. If analytical tests do not verify the initial determination, the drums will be checked individually. Those drums not matching the original sample will be returned to the generator.

6. Record Keeping

Once the waste has been accepted and verified, the appropriate copies of the manifest are put together with the chromatograms, lab reports, and waste sample profile report. They are filed, by generator, and kept in the operating record for a minimum of 3 years. The manifest number is recorded on the retain waste sample and this sample is kept for 3 years.

An operating log indicating the date of shipment and quantity of drums of each type will be maintained. The operating log will also indicate the dates of incineration, or shipment to another TSD facility. A running balance of each type of waste stored in the containment area will be maintained. The log will also indicate the dates of analytical verification, and whether manifest discrepancies existed.

7. Analysis of Ash

Any ash resulting from the incineration of a CFR 40 261 Subpart D hazardous waste will be treated as a hazardous waste. It will be properly labelled and stored in the hazardous waste storage area until a drum has been collected. The entire drum will be then sent offsite for disposal. Any ash resulting from the incineration of a Subpart C hazardous waste will be segregated from ash generated from Subpart D waste. It will be handled as a hazardous waste until the provisions of CFR 40 261.3 (d)(1) have been addressed, and only if the incinerator has been thoroughly brushed out after and prior to burning of Subpart D waste by an operator wearing a respirator capable of preventing dust and particulate inhalation. In all other circumstances, ash must be handled and disposed of as hazardous waste. The incinerator tank must also be decontaminated after and prior to burning of Subpart D waste before any ash derived from Subpart C waste can be segregated from ash derived from Subpart D waste.

8. Addendum

Representative samples of incoming hazardous waste intended for incineration or tank storage must be analyzed for arsenic cadmium, lead, mercury, and chromium VI content, in accordance with EP Toxicity test procedures specified in SW-846. If the concentrations exceed the level in 40 CFR 261.24, then the waste cannot be accepted by CIC.

Representative samples of incoming hazardous waste intended for incineration or tank storage must be analyzed for TOX pursuant to SW-846, Method 9020. If the total halogen content is found to exceed 100 ppm, then the waste must be handled as Type III hazardous waste.

In this context, any hazardous waste containing more than a total of 100 ppm of organic halogenated constituents shall be defined as a halogenated hazardous waste and shall be classified as Type III.

The frequency of testing for EP Toxicity in incoming hazardous wastes must be conducted pursuant to the criteria indicated in Section 3, paragraph 7, of this plan. TOX must be conducted on representative samples of hazardous waste from each shipment prior to storage. The requirement to conduct TOX testing may be waived if it has already been established that the waste is of Type III.

ATTACHMENT 2

INSPECTION RECORDS

WASTE MANAGEMENT
AUG 15 1984
E. G. L. J. E.
D

AREA/EQUIPMENT	SPECIFIC ITEM	TYPES OF PROBLEMS	FREQUENCY
Personal Equipment	Boots, gloves masks, goggles	Check for holes or leaks in boots and gloves, and in the packages of the masks. Clean goggles.	Monthly or after each use.
Incinerator	Waste feed rate	Should be below $15.0 \pm 15\%$ gallons per hour	Weekly
	Manual override switch	Should be in Type Is position during startup.	Daily
	Injector Nozzle	Check for plugging	Weekly
Waste Feed Cutoffs	Carbon Monoxide monitor & Cutoff	Check operability	Daily*
	Combustion gas vel.	Should not be greater than 2850 ft/min- (actual)	Weekly
	Pump inlet pressure	Should not be less than 20 in Hg vacuum	Monthly
	Pump outlet pressure	Should not be greater than 50 psi	Monthly
	Air pressure switch	Should not be less than 50 psi	Weekly
	Main chamber temp.	Should be between 1300°F and 1700°F	Daily*
	Sec. chamber temp.	Should be between 1700°F and 2300°F	Daily*
Reservoir	Waste level before filling	Should be empty	Daily*
	Waste level at end of day	Should be below feed pipe	Daily*
	Overflow return line	Check operability	Daily*
	Manual override valve	Check for proper position for waste being burned	Daily*
	Construction and surrounding area	Check for leaks, spills, evidence of possible leaks	Weekly
	Reservoir	Check for corrosion and erosion	Yearly

* Daily meaning those days on which the incinerator
is actually operated.

DAILY INSPECTION LOG FOR INCINERATOR, MONITORING EQUIPMENT, AND RESERVOIR

Inspector's Name _____

Title _____

Date _____

Time _____

Visually check these areas for spills, leaks, plugging, or tampering

	<u>OK</u>	<u>Problem</u>
Pipes/Hoses	_____	_____
Pumps	_____	_____
Valves	_____	_____
Reservoir	_____	_____
Strainer Basket	_____	_____
Control Settings	_____	_____
Overflow recycle/return line	_____	_____

Before operation, check the following:

Operability of CO cutoff	_____	_____
Main chamber temperature cutoff	_____	_____
Secondary chamber temperature cutoff	_____	_____
Level of waste prior to filling should be empty.	_____	_____
Manual override switch should be on type 1s	_____	_____

During operation, check monitoring equipment to be sure it is functioning within the correct limits:

<u>EQUIPMENT</u>	<u>SHOULD BE</u>	<u>ACTUAL READING</u>
CO Monitor	Below 100 PPM	_____
Main Chamber Temperature	Between 1300-1600°F	_____
Secondary Chamber Temperature	Between 1700-2000°F	_____
Waste Feed Rate	Below 17½ gal/hr	_____
Combustion gas velocity	Below 2850 ft/min (actual)	_____

On the back side of this form, list any problems and remedial action taken. Also list any automatic cutoffs which occurred and the remedial action needed to resume operation. (Any problems must be corrected before starting or resuming operation of the incinerator)

If incinerator was not operated this day, date the log and indicate so here

(X) _____.

INSPECTION SCHEDULE

AREA/EQUIPMENT	SPECIFIC ITEM	TYPES OF PROBLEMS	FREQUENCY
Container Storage	Container placement	Check for aisle space and height of stacks.	Weekly
	Sealing of drums	Check for open drums and leakers.	Weekly
	Drum labels	Check for missing labels or missing information on labels. Check for improper labels.	Weekly
	Pallets	Check for broken or damaged boards.	Weekly
	Floor, dike, ramp, and sump	Check for cracks, deterioration or leaks.	Weekly
	Divider chain	Check for proper placement.	Weekly
Inventory	Drums	Check current total-should match running balance in operating log.	Weekly
Emergency Equipment	Floor absorbent	Check stock and placement of floor absorbent.	Monthly
	Pump & steam cleaner	Check operability	Monthly
	Fire extinguisher	Check placement Check recharging (done by outside service)	Monthly Yearly
	Overpack drums	Make sure two are always available.	Monthly
	Telephone	Check to make sure it's in working order.	Daily
	Fire alarm	Check for malfunctions.	Set nightly
Security Devices	Doors, fence,	Check for leaks or signs of deterioration. Check for damage or corrosion to links or locks.	Monthly
	Internal alarm	Check for operability.	Monthly
	Sprinkler system	Check for operability.	Yearly
	Warning signs	Check for proper placement.	Weekly

WEEKLY INSPECTION LOG

Inspector's Name _____
 Title _____
 Date _____
 Time _____

ITEM	TYPE OF PROBLEMS	STATUS		REMARKS
		OK	NOT OK	
Container placement	Aisle space, height of stack			DATE AND NATURE OF REPAIR OR ACTION
Seals of drums	Open lids, leakers			
Drum labels	Missing or improper labels			
Pallets	Broken or damaged boards			
Floor, dike, ramp, sump	Cracks, deterioration, or leaks			
Inventory	Discrepancies in count			Actual count:
Chain between types of waste	Check for proper placement			
Construction integrity and area surrounding tank	Check for leaks, spills, or evidence of possible leaks			
Warning signs	Check for proper placement			
Injector Nozzle	Check for plugging			
Test the following cutoff systems of the incinerator:				
Air pressure switch	Should not be less than 50 psi			
Waste feed rate	Should not exceed 17.2 gal/hr.			
Combustion gas velocity	Should not exceed 2850 ft/min. (actual)			

If any of the above cutoffs is not operating properly, do not run the incinerator. List specific problem on the back of this form along with the remedial action taken.

MONTHLY INSPECTION LOG

Inspector _____
Title _____
Date _____
Time _____

ITEM	TYPE OF PROBLEMS	STATUS		REMARKS
		OK	NOT OK	DATE AND NATURE OF REPAIR OR ACTION
Floor absorbent	Stock level			
Fire extinguisher 1	In its proper location			
Fire extinguisher 2	In its proper location			
Protective clothing	Holes, wear and tear			
Security devices	Damage to fence or lock			
Organic respirators	Check for damage			
Overpack drums	Check availability			
Steam cleaning unit	Check operability			
Manual transfer pump	Check operability			

Test the following cutoff systems of the incinerator:

Pump inlet pressure Should not be less than 20 in Hg vacuum

Pump outlet pressure Should not be greater than 50 psi

If either of the above cutoffs is not operating properly, do not run the incinerator. List specific problem on the back of this form along with the remedial action taken.

YEARLY INSPECTION LOG

Inspector _____

Title _____

Date _____

Time _____

In June of each year, check the following:

ITEM	WHAT TO CHECK	STATUS		REMARKS
		OK	NOT OK	DATE & NATURE OF REPAIR OR ACTION
Fire extinguishers	Make sure the service company recharges them.			
Sprinkler system	Make sure the service company checks operability			
Reservoir	Check for corrosion/erosion			

Attachment 3

PERSONNEL TRAINING

H-1a Job Titles

Appendix 23 is an overview of the organization of the organization of the hazardous waste program of Commerce Industrial Chemicals, Inc..

Appendix 24 is a list of job titles and the names of the persons who fill these positions.

H-1b Content

Each Commerce Industrial Chemicals, Inc. employee initially attends a hazardous materials and waste management training/compliance seminar. This seminar, which is currently being given by the Transportation Skills Program, is a comprehensive and extensive overview to current, new, and proposed regulations of the EPA, DOT, and OSHA, for handling of hazardous material, substances, and wastes.

Persons directly involved with the handling of hazardous wastes and materials are initially given a test to determine the extent of their knowledge of safe procedures and regulations. Areas of incorrect answers are then reviewed with the employee to ensure safe handling of the materials and compliance with the regulations. Each employee has access to a semi-annually updated copy of CFR 40 and CFR 49. They also have access to an annually updated copy of Hazardous Materials, Substances, and Waste Compliance Guide, which references CFR 40 parts 117 and 260-265. Also CFR 49 parts 171 and 172. This is an extremely comprehensive text, yet written in laymen's terms for easy understanding and compliance. Appendix 25 lists the table of contents for these publications.

Emergency coordinators all take part in formulating the contingency plan. A meeting is held every six months, or after the plan has been put to use, whichever is first, to evaluate the plan's performance and to make any necessary changes. Drills on the contingency plan are held to familiarize all personnel at the facility with the plan. Persons involved with any emergency equipment are trained in the use of that equipment.

Persons operating the incinerator will receive training from the Paul Reilly Company, the authorized sales and service representative for the incinerator manufacturer, the Kelley Company. This will be done during the shakedown period in which only type 1 (exempted waste) will be burned. The training will include acquaintance with incineration process. Proper operation and maintenance of the unit. Purpose and use of security and communication systems. Monitoring requirements for tracking and recording the operation of the unit. How to test waste feed cut off systems. How to inspect incinerator. Use of type 1s waste. Servicing of unit. Emergency response. This training will continue until the seller and the manufacturer of the incinerator feel that the operator(s) is competent in all aspects of its operation. After training and shakedown periods have been completed, an independent registered PE will be contacted to give certification that the incinerator is being operated correctly.

Persons conducting inspections are trained to know the areas to be inspected and to understand the possible problems that can occur in those areas. Inspection logs are provided for the inspector to complete.

H-1c Trainer Qualification

Persons involved in training are the Head of the Waste Program, the Technical Director, and the Environmental Operations Manager. They have annually attended the Hazardous Materials, Substances, and Waste Management Training and Compliance seminar given by the Transportation Skills Program. Two have attended programs on "Industrial Solid and Hazardous Waste Incineration" and "Hazardous Waste Management Practices" conducted by the University of Wisconsin Extension, Department of Engineering and Applied Science. This along with many years of practical experience in the actual handling of hazardous materials and wastes provides a good basis for these trainers to implement training of others. The trainers will maintain their skill by continuing to attend classes or seminars which are relevant to hazardous waste management.

H-1d Relevance of Training

Persons involved directly with the handling of waste are given broad instruction in that area and limited instruction in the administrative area. Office personnel have limited instruction in all areas except their actions as instructed in the contingency plan. Appendix 26 is a chart which shows the relevance of training to a particular job.

H-1e Emergency Response

All personnel are instructed in their response to the contingency plan. Personnel directly involved with the handling of the waste are trained to respond properly to emergency situations such as fire, explosion or spill.

H-2 Implementation

All personnel are currently trained in their respective areas. Upon receipt of the final permit, another session will be held with all personnel involved to ensure compliance with every aspect of that permit. Sessions will be held annually to maintain personnel skills. All areas of hazardous waste handling, storage, and treatment will be reviewed, noting any problems or changes which had occurred during the past year. Problem areas will be identified and discussed in order to form effective solutions. The contingency plan will be reviewed, noting any incidents which warranted the use of the plan and/or emergency action. We will focus on the cause of the incident and create steps which can be taken to prevent further incidents and insure better handling of such events in the future.

Records of training are kept in the operating record until closure for current employees and for 3 years from the date of an individual employee's termination for former employees.

1982/83 HAZARDOUS MATERIALS/
WASTE COMPLIANCE GUIDE

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PART 264 STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE & DISPOSAL FACILITIES

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Section	
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264.2	[Reserved]
264.3	Relationship to interim status standards
264.4	Imminent hazard action
264.5 - 264.9	[Reserved]

Subpart B — General Facility Standards

264.10	Applicability
264.11	Identification number
264.12	Required notices
264.13	General waste analysis
264.14	Security
264.15	General inspection requirements
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264.17	General requirements for ignitable, reactive, or incompatible wastes
264.18	Location standards.
264.29	[Reserved]

Subpart C — Preparedness and Prevention

264.30	Applicability
264.31	Design and operation of facility
264.32	Required equipment
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DISPOSAL STANDARDS

HAZARDOUS WASTE MANAGEMENT GUIDE

Subpart D — Contingency Plan and Emergency Procedures

264.50	Applicability
264.51	Purpose and implementation of contingency plan
264.52	Content of contingency plan
264.53	Copies of contingency plan
264.54	Amendment of contingency plan
264.55	Emergency coordinator
264.56	Emergency procedures
264.57	
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Subpart E — Manifest System, Recordkeeping, and Reporting

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- 264.112 Closure plan; amendment of plan
- 264.113 Closure; time allowed for closure
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- 264.117 Post-closure care and use of property
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Subpart H — Financial Requirements

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- 264.142 Cost estimate for facility closure
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- 264.146 Use of a mechanism for financial assurance of both closure and post-closure care
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DISPOSAL STANDARDS

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RELEVANCE OF TRAINING

JOB TITLE	PERSONAL SAFETY	RELEASE PREVENTION AND RESPONSE	CONTINGENCY PLAN	EMERGENCY PROCEDURES	HAZ. WASTE MGT. PRACTICES	RECORD KEEPING	WASTE HANDLING
Head of Program	B	B	B	B	B	B	B
Emer. Coordinators	B	B	B	B	B	L	B
Env. Operation Mgr.	B	B	B	B	B	L	B
Technical Director	B	B	B	B	B	B	B
Lab Chemist	B	B	B	B	B	B	B
Warehouse men	B	B	L	L	L	L	B
Drivers	B	B	L	L	L	L	B
Office Personnel	L	L	L	L	L	L	L

B= Broad Instruction

L= Limited Instruction

ATTACHMENT 4

CONTINGENCY PLAN

CONTINGENCY PLAN
OF
COMMERCE INDUSTRIAL CHEMICALS, INC.
5611 W. WOOLWORTH AVE.
MILWAUKEE, WI 53218

OWNER/OPERATOR
DONALD J. MICHALSKI
7033 W. WELLS ST.
WAUWATOSA, WI 53213
414 774-8580

Our inventory currently consists of 3 types of wastes.

Type 1 is waste which is hazardous solely because of ignitability and contains no hazardous constituents as listed in CFR 40 part 261 Appendix VIII. (This list is also found in Wis. DNR's NR 181.16 Table VI) The basis for the hazardous designation is that the flash point of this material is below 140°F which puts this into the ignitable, (D001) category.

Type 2 is waste thinner which is being stored prior to shipment for reclaiming. Type 2 may also consist of still bottoms from the recovery of the waste thinner. The basis for the hazardous designation is that this waste usually contains a hazardous constituent as listed in CFR 40 part 261 Appendix VIII which would put this into the F005 category. It also has a flash point of less than 140°F which puts it into the ignitable (D001) category.

Type 3 is waste which consists of chlorinated solvents that are being stored prior to shipment for reclaiming. The basis for the hazardous designation is that this waste contains hazardous constituents as listed in CFR 40 part 261 Appendix VIII which would put this into the F001 category.

These are the primary and alternate emergency coordinators.

<u>Name</u>	<u>Address</u>	<u>Work</u>	<u>Home</u>
Ronald Nellis	20149 W. Good Hope Rd. Lannon, WI 53046	353-3630 Beeper	255-4547 226-9093
Donald Michalski	7033 W. Wells St. Wauwatosa, WI 53213	353-3630	774-8580
Fredric Michalski	2524 S. 62nd St. Milwaukee, WI 53219	353-3630	321-0414
Harriet Pedersen	1561 N. 51st St. Milwaukee, WI 53208	353-3630	475-5344
Ralph Harpt	2052 N. 84th St. Wauwatosa, WI 53226	353-3630	476-4078

If Donald Michalski is on site, being the owner/operator, he will immediately assume responsibility of determining whether or not this contingency plan must be implemented. If he is not on site, the highest listed person who is on site will assume this duty.

If necessary this person will then proceed with the actions outlined within this contingency plan.

The procedures described within this contingency plan will be carried out by one of these designated coordinators only.

EMERGENCY EQUIPMENT

The building is equipped with an automatic sprinkler system and alarm bell. This system is connected to Honeywell Protection Services 24 hours/day. Smoke detectors are located throughout the building.

The following is located at the designated "Emergency Equipment Area" which is located at the north end of the warehouse near the office access door.

- 1. Two open head drums of Oil Dri to absorb spilled material.
2. One shovel.
3. Two pair of protective boots, fire fighter type.
4. Two pair of protective gloves.
5. Two pair of splash proof goggles.
6. Two organic respirators.
7. Two empty openhead drums for the disposal of contaminated Oil Dri.
8. Two over pack drums in the event of severely leaking drums.

Located around the warehouse:

1. One 20 pound ABC type fire extinguisher is located at the northwest corner of the building on the wall inside the west door.
2. One 20 pound ABC type fire extinguisher is located at the entrance to the hazardous waste storage area which is in the east section of the building.

These fire extinguishers are maintained under agreement with the Automatic Fire Protection System Corp. 3265 N. 126th St. Brookfield, WI 53005.

The following equipment is available for emergency use:

1. One manual transfer pump.
2. One portable steam cleaning unit.

EVACUATION PLAN

All persons in the office at the time of an emergency shall leave through the front door.

All persons in the warehouse at the time of an emergency shall leave through any one of the 17 doors located evenly throughout the warehouse.

All persons shall then meet for a head count on 56th street at Mill Rd. It is at this location that the emergency coordinator will wait for local, state, or federal authorities to give any assistance in the control of the emergency.

No one shall return to the building unless authorized by the emergency coordinator or unless the all clear has been given by the emergency coordinator.

A list of employees will be in the operating record to aid the emergency coordinator the head count.

FIRE IN THE GENERAL WAREHOUSE

1. Evacuate all personnel.
2. Notify fire department at 347-2323, City of Milwaukee Emergency Government Adm-, 278-5503 (office), 464-7439 (home).
3. Note location of fire so that when the fire department arrives you can help them determine the best plan of attack.
4. If possible, make sure the door to the hazardous waste storage area is closed, shut off electrical system, and shut off the waste feed to the incinerator.
5. If possible, obtain the hazardous waste operating records from the safe and then close the safe.
6. Leave the building and wait at the designated area for the fire department.
7. Take a head count of all personnel.
8. Notify proper authorities if the hazardous waste storage area becomes involved and there is a threat to human health or to the environment.

FIRE IN THE HAZARDOUS WASTE STORAGE AREA

1. Evacuate all personnel.
2. Notify the fire department at 347-2323, and City of Milwaukee Emergency Adm., 278-5503 (office), 464-7439 (home).
3. If possible, make sure the door to the hazardous waste storage area is closed.
4. If possible, obtain the hazardous waste operating records from the safe and then close the safe.
5. If possible, shut off the electrical system and the waste feed to the incinerator.
6. Leave the building and take a head count of the personnel at the designated meeting area.
7. From another phone, notify the Wis. DNR at 1-608-266-3232 and the National Response Center at 1-800-424-8802, and the City of Milwaukee Emergency Government Administration at 278-5503-office, 464-7439-home.
8. Return to the designated meeting area and wait for the fire department.

SMALL SPILL OF HAZARDOUS WASTE OUTSIDE OF DIKE-INCLUDING INCINERATOR AREA

1. Get Oil Dri from designated emergency area and contain spill. Use protective gloves and boots and breathing apparatus if necessary. Open doors and windows to ventilate area.
2. Remove any source of ignition.
3. Gather contaminated Oil Dri and put into the empty drums provided.
4. Properly label drums and put into the hazardous waste storage area.
5. Clean all equipment used and return it to the designated emergency area.
6. Arrange for disposal of contaminated Oil Dri.

MAJOR SPILL OF HAZARDOUS WASTE OUTSIDE OF DIKE-INCLUDING INCINERATOR AREA

1. If spill reaches sewer, notify sewage treatment plant immediately at 278-3958.
2. Remove any source of ignition. Ventilate area.
3. Attempt to contain spill if possible with Oil Dri using the protective clothing if necessary.
4. Notify Wis. DNR and the National Response Center. Also notify the fire department, and the City of Milw. Emer. Gov. Adm.
5. If clean up is not possible without help, contact AAA Environmental Services for clean up operation.
6. If necessary, evacuate personnel.

ANY SPILL WITHIN THE DIKE

1. Collect all material at sump area and pump into approved drums.
2. Put drums into storage area.

AFTER THE EMERGENCY

These requirements must be fulfilled.

1. All emergency equipment used must be cleaned and fit for use again.
2. All affected areas must be cleaned before resuming operation.
3. Notify the Wis. DNR and EPA that the facility has been cleaned and is once again in compliance.
4. Note in the operating record the date, time, and details of any incident which required this contingency plan.
5. Within 15 days after the incident, submit a written report to the Wis. DNR and the EPA including:
 - a. Name, address, and phone of the owner/operator.
 - b. Name, address, and phone of the facility.
 - c. Date, time, and type of incident.
 - d. Names and quantities of materials involved.
 - e. The extent of any injuries.
 - f. An assessment of actual or potential hazards to human health or the environment where applicable.
 - g. Give the estimated quantity and disposition of any recovered material which resulted from the incident.

INJURY RESULTING FROM FIRE OR SPILL

1. During a fire, move injured person to the designated meeting area.
2. During a spill, move injured person outside to the fresh air.
3. Call the Fire Department at 347-2323.
4. Call St. Michael's Hospital at 263-8175, and alert them as to the nature of the person's injuries and the approximate arrival time.

NOTIFICATION REQUIREMENTS

Fire:	Milwaukee Fire Department	347-2323
	City of Milwaukee Emergency Gov. Adm.	278-5503/464-7439
Fire of haz. waste	Milwaukee Fire Department	347-2323
	Wis. DNR	1-608-266-3232
	National Response Center	1-800-424-8802
	City of Milwaukee Emergency Gov. Adm.	278-5503/464-7439
Major spill	Wis. DNR	1-608-266-3232
	National Response Center	1-800-424-8802
	Milwaukee Fire Department	347-2323
If spill reaches sewer	Milw. Sewage Treatment Plant	278-3958
	after hours:	271-2403
If spill reaches navigable waters	U. S. Coast Guard	291-3165
Injury	Fire Department	347-2323
	Paratech Ambulance	464-2020
	St. Michael's Hospital	263-8175

When calling Wis. DNR and National Response Center, have the following information ready:

1. Your name and the phone from which you are calling.
2. The company name and address
3. The time and type of incident (fire, spill etc.)
4. Names and quantities of the materials involved to the best of your knowledge.
5. Extent of injuries if any.
6. The possible hazard to human health or the environment outside of the facility.

For help in clean up operations:

AAA Environmental Services

541-1440

KEY

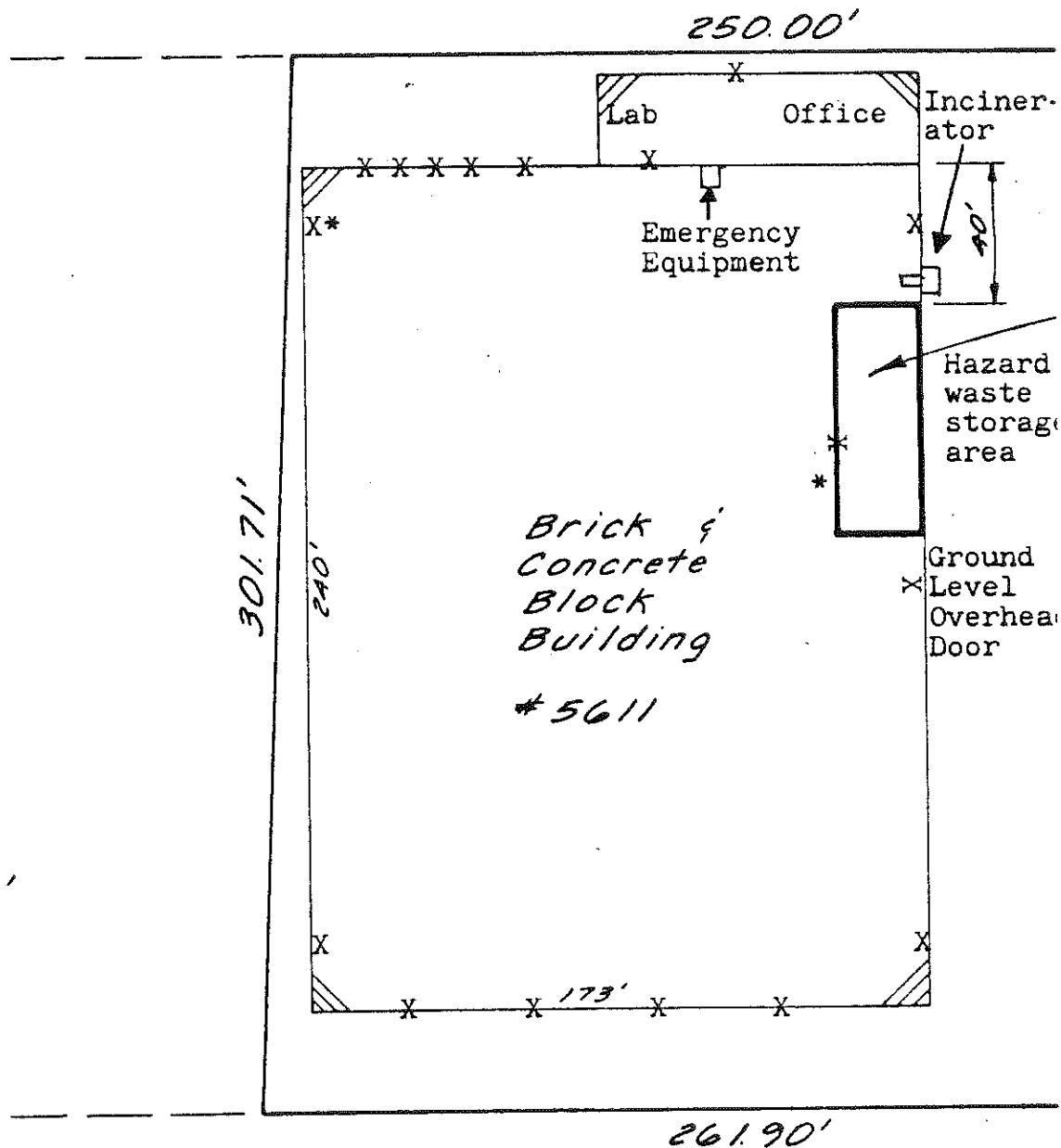
X = Door or exit
 * = Fire extinguisher

W.

Woolworth



Scale: 1" = 50'



Chicago

&

Northwestern

LOCATION MAP

OVERVIEW OF EMERGENCY RESPONSE

FIRE/EXPLOSION

Call Fire Dept. 347-2323
City of Milw. Emer. Gov. Adm. 278-5503 (office)
464-7439 (home)
If possible, contain or extinguish fire

Call Emergency Coordinator

Ronald Nellis 255-4547 or 226-9093
(Beeper)

Donald Michalski 774-8580

Fredric Michalski 321-0414

Harriet Pedersen 475-5344

Ralph Harpt 476-4078

Inform local, state, and federal agencies

Wis. DNR 1-608-266-3232
National Response Center 1-800 424-8802

INJURY

Call Fire Dept. 347-2323
Call ambulance 464-2020

Call St. Michael's
Hospital 263-8175

Call Emergency Coordinator

(see list under Fire/Expl.)

SPILL OR MATERIAL RELEASE

If possible, contain spill

Call emergency coordinator
(see list under Fire/Explosion)

Inform local, state, and federal agencies
(see list under Fire/Explosion)

If spill reaches sewer system

Call treatment plant 278-3958
After hours call 271-2403

If spill reaches navigable water

Call U.S. Coast Guard 291-3165

City of Milw. Emer. Gov. Adm.- 278-5503
(office)
464-7439
(home)

ATTACHMENT 5

CLOSURE PLAN

I-1a,b,c,d,e,&f Closure Plan

Appendix 27 is a copy of our approved closure plan which covers the information requested in these sections. It lists, in steps, the actions necessary for closure of this facility at the end of its intended operating life. If there are any changes in our operation which would affect the closure plan or cost estimate, an amendment will be made to the plan and submitted to the Regional Administrator and the Wis. DNR for approval and possible permit modification. This plan and any amendments will be kept on file at the facility until the certification of closure completeness has been accepted by the EPA and Wis. DNR, and the certification by an independent registered professional engineer that the facility is closed has been submitted to the EPA and Wis. DNR.

I-3 Notice in Deed and Notice to Local Land Authority

This facility is not a disposal facility therefore, notation is not necessary in the deed informing potential purchasers of restrictions associated with a disposal site as required by CFR 40 part 264.120.

I-4 Closure Cost Estimate

An estimated \$9,500.00 (January 1984 cost estimate) will be needed to close this hazardous waste facility. The closure costs are attached to the closure plan in Appendix 27. Costs include removal of waste inventory, decontamination, disposal of wash waters, and closure certification.

These estimates were made as follows:

Removal of inventory The maximum inventory we would have at the time of closure is 396 drums. Disposal cost is based on a quote from Hamilton Industries at Two Rivers, WI of .35¢/gal for incineration of this material. A copy of this quote is attached. Freight costs and labor for the loading of the drums are also listed in this estimate.

Decontamination of storage area and incinerator Once the drums have been removed, the storage area will be steam cleaned, generating an estimated two drums of waste water and residue. Should this waste water be hazardous, it will be included in the final shipment of waste inventory being shipped for disposal. The incinerator pipes, pump, lines, and feeder tank will also be steam cleaned generating an estimated two drums of waste water which will be included in the final waste inventory being shipped for disposal. Any ash remaining, if hazardous, will be sent for land fill. Labor for these activities has been listed in this estimate.

If laboratory analysis of generated waste water shows no evidence of contamination, and only if the waste water will meet City of Milwaukee sewer use ordinance pretreatment standards, the waste water and residue in these drums will be discharged to the sewer system.

Closure Certification The cost of closure by a professional engineer is estimated on the basis of \$30.00 per hour at an estimated two hours.

This closure cost estimate will be kept on file and annually, from the date of original development, be revised to reflect changes in closure cost brought about by inflation. The Department of Commerce's Annual Implicit Price Deflator for Gross National Product will be used to make this adjustment. It will also be revised any time a change in the closure plan affects the cost of closure. The Regional Administrator and the Wis. DNR will be notified of any change.

I-5 Financial Assurance Mechanism for Closure

We have established an Irrevocable Letter of Credit through the M&I Marshall & Ilsley Bank in Milwaukee, WI, in the amount of \$10,375.00 which is our closure cost estimate adjusted by the Implicit Price Deflator for Gross National Product. The beneficiary is the State of Wisconsin Department of Natural Resources. This letter of credit is valid for one year and will be automatically extended each year unless we are notified 90 days prior to the current expiration date. Appendix 28 is a copy of this Letter of Credit.

I-6 and I-7 Post Closure Cost Estimate and Financial Assurance

Since all wastes will be shipped off site for disposal, there will be no post closure activities or costs.

I-8a Liability Insurance for Sudden Occurrences

Our existing liability insurance policy is currently being amended to include the Hazardous Waste Facility Liability Endorsement as specified in CFR 40 part 264.147. It will include liability coverage for sudden and accidental occurrences in the amount of \$1 million per occurrence with an annual aggregate of \$2 million exclusive of legal defense costs. Appendix 39 is a copy of our existing policy with the amendment attached.

I-8e Adjustment Procedures

If the Regional Administrator increases the amounts of liability coverage or elects to improve nonsudden liability coverage requirements, we will seek an adjustment to the insurance policy discussed above.

I-9 State Assumption of Responsibility

We will not request state assumption of the legal or financial responsibilities.

This closure plan addresses all the steps that will be necessary to close this facility at the end of its intended operating life. A post closure plan is not required because this is not a disposal facility and all wastes will be removed at closure. Also, as we do not store waste in tanks, surface impoundments, or landfills, nor do we treat by the process of land treatment, thermal treatment, or chemical, physical, or biological treatment, these items are not addressed in this plan. The feeder tank to the incinerator is addressed in step 3.

This closure plan was designed to ensure that the facility will not require further maintenance and controls. It minimizes or eliminates threats to human health and the environment, and it avoids escape of hazardous waste or hazardous waste constituents. The following sections discuss, in detail, efforts to be made at Commerce Industrial Chemicals, Inc. to satisfy the closure performance standard.

Step 1

Current estimate of closure would be in 15 year from issuance of this permit. We intend to continue storing and treating waste throughout the existence of the corporation, therefore, at the expiration of the permit, a review will be made as to whether or not we will seek extension of the permit.

At the actual time of closure, however, we will, within 60 days after receiving the final volume of waste, treat or remove from the site, all hazardous wastes in accordance with this plan. The Regional Administrator will be notified by Commerce at least 180 days before the beginning of final closure. The Wis. DNR will be notified at least 120 days before the beginning of final closure.

Step 2

The maximum inventory we could have at one time is 396 drums. At the time of closure, if we were at our maximum, we estimate it would take approximately 75 days to send all drums off site for incineration. (That is approximately two 80 drum truckloads per month) The decontamination of the incinerator would take approximately 1/2 day. Once the waste is off site, the decontamination of the drum storage would take approximately 1/2 day. We do not anticipate needing an extension of the allowed time.

Step 3

Following waste removal, the container storage area will be decontaminated by a series of steam cleaning operations, using the portable steam cleaning unit which is company owned. All waste water and residue generated will be collected at the sump area and pumped into 17E steel drums. The material will be analyzed at once. If the laboratory analysis indicates that the waste water is hazardous, it will be sent off site with all the other stored waste. If the analysis shows no evidence of contamination, and only if the waste water will meet City of Milwaukee sewer use ordinance

pretreatment standards, the waste water and residue in these drums will be discharged to the sewer system.

1. WASTE MATERIALS. During the term of this Agreement, Generator will provide to Disposer the chemical composition and physical characteristics of which materials are described in the "Generator's Waste Material Profile Sheet", attached hereto, marked Exhibit "A", and incorporated herein.

2. DISPOSER SERVICES. Disposer agrees to provide Generator the disposal of the described waste materials, in a manner permitted by law, at the following facility: Hamilton Industries, 1316 - 18th Street, Two Rivers, Wisconsin 54241.

3. FEES AND BILLING. For those services provided by Disposer, Generator will pay Disposer a fee as follows:

\$0.35 per gallon if delivered in 55 gallon drums.

\$0.30 per gallon if delivered in bulk.

All materials delivered with freight prepaid to our facility.

CLOSURE PLAN
OF
COMMERCE INDUSTRIAL CHEMICALS, INC.
5611 W. WOOLWORTH AVE.
MILWAUKEE, WI 53218

OWNER/OPERATOR
DONALD J. MICHALSKI
7033 W. WELLS ST.
WAUWATOSA, WI 53213

414 774-8580

LAW OFFICES OF

GOLDBERG, PREVIANT, UELMEN,
GRATZ, MILLER & BRUEGGEMAN, S.C.

788 NORTH JEFFERSON STREET
MILWAUKEE, WISCONSIN 53202

TELEPHONE (414) 271-4500

MAILING ADDRESS
P.O. BOX 92099
MILWAUKEE, WISCONSIN 53202

LFRED G GOLDBERG
DAVID PREVIANT
ALBERT J GOLDBERG
DAVID L UELMEN
RICHARD M GOLDBERG
GERALD A GOLDBERG
GERRY M MILLER
LARRY B BRUEGGEMAN
MATTHEW R ROBBINS
MARIANNE G ROBBINS
SCOTT D. SOLDON
THOMAS J FLANAGAN

BERNARD O WESTLER
DEAN M HORWITZ
FREDERICK PERILLO
JOHN D UELMEN
ROGER A RUSTAD
DANIEL E GOLDBERG
HOPE K OLSON
LARRY R STEFFES
KENNETH G. DAU-SCHMIDT

JOS A PADWAY 1912-1947
IE GOLDBERG 1927-1947
SAUL COOPER 1937-1960
ROBERT E GRATZ 1947-1985

October 29, 1985

Mr. Lee Thomas
Administrator
U.S. EPA
Attention: Ronald McCallum (A-101)
Judicial Officer
401 M Street SW
Washington, D.C. 20460

RECEIVED

OCT 30 1985

Regional Administrator
U.S. EPA, Region V
Waste Management Branch
230 South Dearborn Street
Chicago, Illinois 60604

SOLID WASTE BRANCH
U.S. EPA, REGION V

Attention: Karl J. Klepitsch, Jr.

Re: Commerce Industrial Chemicals
WID 980795181

Gentlemen:

Enclosed please find a Petition for Review and Request for Evidentiary Hearing in the above-referenced matter filed on behalf of the Northwest Side Community Alliance and Cari Backes. A copy of this Petition and Request have been served on Commerce Industrial Chemicals by first class mail.

Very truly yours,

GOLDBERG, PREVIANT, UELMEN,
GRATZ, MILLER & BRUEGGEMAN, S.C.

BY:

MARIANNE GOLDSTEIN ROBBINS

MGR:Imd

10/24/85

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of the Permit
Decision Relative to:

COMMERCE INDUSTRIAL CHEMICALS, INC.
HAZARDOUS WASTE MANAGEMENT FACILITY,
Milwaukee, Wisconsin

WID 90795181

PETITION TO REVIEW

NOW COME Petitioners Northwest Side Community Alliance and Cari Backes and petition the Administrator of the United States Environmental Protection Agency to review the permit decision issued on September 27, 1985 by Region 5 of the United States Environmental Protection Agency and, in the alternative request Regional Administration order an evidentiary hearing reopening of the public comment period, and/or hold further proceedings under subpart F, 40 CFR §124 and, in support thereof states as follows:

1. Petitioner Northwest Side Community Alliance (hereinafter "the Alliance") is a Wisconsin non-profit corporation representing Friends of Havenwood, Inc., North Milwaukee Concern Inc., North Milwaukee Action Inc., McGovern Community Park, Inc., whose total membership is approximately 600 persons, all of whom reside in the City and County of Milwaukee, State of Wisconsin, and many of whom reside in close proximity to the Hazardous Waste

Management Facility owned by Commerce Industrial Chemicals, Inc. which is here at issue (hereinafter the "CIC facility"). Northwest Side Community Alliance Inc. is located at 3520 West Villard, Milwaukee, Wisconsin 53209. Petitioner Northwest Side Community Alliance has standing to bring this petition as a person who filed comments on the draft permit for the CIC hazardous waste management facility.

2. Petitioner, Cari Backes, is a resident in the City and County of Milwaukee residing at 5708 North 56th Street, Milwaukee, Wisconsin 53218, in proximity to the hazardous waste facility owned by CIC. She is a member of the Northwest Side Community Alliance and has standing to bring this petition as a participant in the public hearing on the draft permit for the CIC facility held on November 1, 1984.

3. As set forth in more detail below, review of the final decision to issue a permit to the hazardous waste facility owned by CIC is necessary because the decision and the permit as presently conditioned include findings of fact and conclusions of law which are clearly erroneous. Further the decision and the permit as presently conditioned are based on important policy considerations and the exercise of discretion which the Administrator, in his discretion should review.

4. Petitioners request an evidentiary hearing pursuant to 40 CFR §124.74 to consider the issues described below on the same

basis as for permit termination decisions under the Resource Conservation and Recovery Act (RCRA) and the permit under the National Pollutant Discharge System (NPDES) since there is no rational basis for a distinction in hearing rights for these permit decisions. This request is based on submissions already in the administrative record herein and the Report on the Incineration of Liquid Hazardous Waste by the Environmental Effects, Transport and Fate Committee Science Advisory Board (EPA) dated April 1985 hereinafter "Advisory Board Report," attached hereto as Exhibit A. The hearing would require an estimated two days of testimony.

5. In the alternative, Petitioners request that the Regional Administrator reopen the period for public comment and hold further proceedings under subpart F, 40 CFR §124.

6. The petitioners request that the Administrator consider this request for review in light of its potential precedential effect. See Response to Comments pp.2,20. September 27, 1985. The CIC facility involves the first of several permit requests for hazardous waste facilities pending before the Wisconsin Department of Natural Resources which could have a cumulative effect on the environment in the City of Milwaukee. The procedure and rationale applied to one facility does set precedent for others. See Response to Comments, p.1. reference to the I.T. Corporation decision. It is important that any precedent established by this case reflect

statutory mandates and the scientific insights provided by the April 1985 Advisory Board Report.

I. THE PERMIT DECISION IS IMPROPERLY BASED ON THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES (DNR) DETERMINATION NOT TO REQUIRE AN ENVIRONMENTAL IMPACT STATEMENT NOW PENDING JUDICIAL REVIEW.

7. The present permit decision is improperly based upon the determination of the Wisconsin Department of Natural Resources since that decision is now pending judicial review. One of the specific issues addressed in the pending petitions for judicial review the question of whether an Environmental Impact Statement is necessary for the CIC facility. (See Petition for Review Enclosed Herein as Exhibit B)

8. In view of the many issues concerning environmental impact of hazardous waste incinerator raised below and the pending judicial review of DNR determination petitioners request the Administrator reverse the decision of the Regional Administrator and order an Environmental Impact Statement be prepared or hold the present permit in abeyance pending final determination of the pending petitions for judicial review.

II. THE PERMIT HEREIN SHOULD BE DENIED BECAUSE CIC HAS NOT PROVIDED ADEQUATE EVIDENCE CONCERNING THE ACTUAL EMISSION FROM THE INCINERATION PROCESS.

9. Questions concerning the identity of chemicals discharged from the proposed CIC hazardous waste facility were addressed by public comment. See Response to Comments p.3. In

addition there were requests for information concerning chemicals to which residents would be exposed. (p.5) Questions concerning hydrogen chloride as an air pollutant. (p.8) Questions concerning probable nature of toxic fumes, (p.17) and the type of monitoring devices required.

10. The permit and decision at issue address the question of discharge from the CIC facility primarily by noting the small concentrations of POHCs and PICs emitted during the trial burn of a Kelly Company incinerator, utilizing standard organic compounds at another location. This measurement is entirely inadequate as noted by the April 1985 Advisory Board Report. The use of destruction efficiencies for selected POHCs does not provide an adequate analysis of the discharge from hazardous waste incinerators:

"[A]s long as the definition of destruction efficiency addresses only the disappearance of the parent POHC and does not take into account products of partial decomposition or products newly synthesized in the incineration process, the definition is limited in its ability to aid in the assessment of total emissions and subsequent assessments of environmental exposures." Report p.16.

Even the inclusion of reference to PICs is not adequate.

"PICs are defined as compounds on the Appendix viii list...By definition compounds absent from Appendix viii list can be neither POHCs or PICs, therefore, they are seldom determined. It is possible that the aggregate of all compounds in the admissions which are neither categorized as POHCs or PICs are more toxic and pose higher environmental risks than those listed. Data on toxicities of composition products relative to parent compounds are lacking." Report p.17.

The Advisory Committee Report finds that "without a thorough

quantitative and qualitative analysis of these compounds [found in emissions] reliable estimates of their transport, their fates and ultimately their human health and environmental impacts appear impossible." Report p.20.

11. The trial burn upon which the permit and decision rely is inadequate because of its short duration under optimal operation conditions. There has been no field testing nor testing under abnormal operating conditions. Such tests analyze only a limited number of selected chemicals and are not validated for the complex mixtures which exist in incinerator emissions, particularly where, as here, solvent and other chemical waste may have various and unidentified mineral as well as organic substances. Overall the sampling of stack emissions has been inadequate. Advisory Board Report of April 1985, pp.23,24. s

12. As the Response to Comment indicates monitoring and cutoff specifications are contained in Sections V.D.6 and V.D.7. These provisions indicate that the only gas for which there is a monitoring cutoff is carbon monoxide. No other dangerous emissions are monitored! This monitoring is entirely inadequate particularly in view of the inadequacy of the trial burn, and destruction efficiencies as measure of total emissions.

13. Given the inadequate information now available concerning the emissions from the CIC facility, the permit should be

denied and any further permit should be conditioned upon more accurate testing of the emissions from the facility and ongoing monitoring of all potential hazardous emissions.

III. PROTECTION AGAINST SYSTEM FAILURES IS INADEQUATE

14. The permit conditions approved by the decision fail to give adequate protection against the possibility of system failure up to and including catastrophic accident.

15. The issue of partial or complete system failure including catastrophic accident was raised during the public comment period. See "Response to Comments Regarding RCRA Hazardous Waste Management Facility Permit to be Issued to CIC" dated September 27, 1985 (hereinafter "Response to Comments") questions regarding possible calamity bottom of page 3,4; equipment for emergency, page 7; evacuation plan in case of emergency, page 8; ventilation in case of major spill, page 9; training for emergency, page 9; vapor control system page 10

16 As the Response to Public Comment indicates, the permit does not include a requirement for a community evacuation plan. This is in direct contradiction to the findings of the Advisory Board Report dated April 1985, which finds that plans for incinerators of hazardous waste "should also include the development of population evacuation procedures" p.8.

17. The lack of provision for identification of vehicles in the permit is erroneously dismissed on the basis that the Department

of Transportation regulations apply to transporters of hazardous waste. As noted in the Advisory Board report, "there is no explicit definition of the roles of the EPA and the DOT with regard to overlapping responsibilities for implementing the RCRA and the HMTA" (Advisory Report p.8.)

18. The permit provides inadequate equipment for the prevention and extinguishment of fire. Provision of a sprinkler system is not adequate where there is potential for chemical fires which may not be properly extinguished with a water system. There is no reference to CIC's recent violation of the Milwaukee City Fire Code nor requirement in the permit to correct this situation.

19. Response to the Comment that a protective fire wall be built is factually (p.7) is incorrect. Hazardous waste is not stored "in a warehouse located inside a larger brick building".

20. The permit plan to respond to a major spill by opening doors and windows is entirely inadequate. As noted by the Advisory Report, "Catastrophic accidents especially near incineration sites where large quantities of liquid hazardous waste are stored and burned require the ability to mount rapid emergency responses. Since the major route for the initial movement of hazardous wastes during an accident is likely to be through the atmosphere, a real time emergency response simulation capability should be developed to provide a site specific analysis of the atmospheric transport and dispersion of toxic gases and particles released or evaporated into

the air." Advisory Board Report p.13. None of the foregoing is included in or considered by the permit conditions and decision herein.

21. Permit conditions which require the separation of incompatible chemicals only by means of identification and a moveable chain but not by independent containment systems or a fire wall as suggested by public comment, do not take into consideration the possibility of catastrophic accident such as a fire or explosion in the storage area.

22. There is no evidence that a containment system which provides a maximum capacity of 10% of the storage capacity is adequate. Response to Comment p.13. There is no monitoring or testing for leakage into the City water system. Response to Comment p.14.

23. The permit allows CIC to operate an incinerator of hazardous waste directly adjacent to a parking lot, with the potential for ignition or mixing of chemicals. Response to Public Comment mistakenly construes public comment to relate to the storage area rather than the incinerator itself.

24. Given the inadequacy of the permit conditions dealing with partial or total systems failures including catastrophic accident, the permit should be denied until completion of a total study concerning the possible effect of a worst case catastrophe or lesser failure and provision of all necessary equipment and protective construction to prevent or mitigate the effect of fugitive emissions, major or minor spills and "worst case" catastrophies.

IV. PROVISION FOR FINANCIAL RESPONSIBILITY IS INADEQUATE.

25. The permit as amended, impermissably allows CIC to commence operation of its hazardous waste facility without attaining the requisite liability insurance for \$1,000,000 per occurrence and \$2,000,000 per year. Further there is no showing that even this coverage is adequate. The issue of adequate insurance coverage was raised during the public comment period Response to Comment p.3.

26. The amended permit which allows CIC to operate a hazardous waste facility without comprehensive liability insurance coverage violates 42 U.S.C. §6925 (g)2 which provides that:

"...there may be no modification or waiver of regulations regarding financial responsibility (including insurance)"

27. The permit to CIC should be denied until such time as it has established liability coverage in an amount to cover all damages from system's failures and the conditions of any permit should be amended to require such coverage.

V. THE DECISION AND PERMIT AS PRESENTLY CONDITIONED FAIL TO TAKE INTO ACCOUNT THE LOCATION OF THE CIC FACILITY.

28 The decision and permit as presently conditioned fail to take into account the location of the CIC facility either from the perspective of the density of population or local meteorologic conditions.

29. Issues of location were raised during the public comment period including the possibility of alternative sites remote from residential areas, p.4, and in terms of the probable direction

in which toxic fumes would flow. p.8. The EPA's response states only that meteorologic characteristics cannot be forecast with accuracy and that the Agency was unable to consider alternative siting. Response to Comment pp.4 and 8.

30. The Advisory Board's Report of April 1985 finds:

"The protocol to determine the likelihood of exposure resulting from incineration should consider factors such as human population density...at the site of the incinerator." p.12.

"Source configurations, topography and ambient meteorology all strongly affect subsequent environmental transport and fate of chemicals...Any prediction of the biologic impact of incinerator emissions needs to consider these factors." Advisory Report p.25.

31. Given the necessity of considering local meteorologic conditions and population density, the permit as presently conditioned should be denied. Any subsequent permit should be conditioned on a full study of meteorologic conditions and the possibility of alternative sitings in less densely populated areas.

VI. THE PERMIT DECISION HEREIN SHOULD BE DENIED UNTIL THE LONG TERM EFFECTS AND TOXICITY OF EMISSIONS CAN BE STUDIED.

32. The long term effects of a hazardous waste facility at the CIC location were raised during the public comment period. Questions concerning soil analysis and decontamination were raised. Response to Comments p.13. As well as the release of pollutants into the soil. Response to Comments p.18.

33. The April 1985 Report of the Advisory Board found that transport and final destination of incineration products in

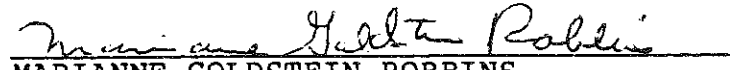
terrestrial systems to be unreliable and lacked thoroughness. (Report p.40) In the soil incineration products may either detoxify or undergo biomagnification. Degradation rates may depend upon soil moisture temperature and the existence of suitable organisms.(Report p.39) None of the foregoing have been studied in relationship to the CIC facility. The Advisory Board Report recommends field study of the long term effects of hazardous waste incinerators "the toxicity of emissions of effluence from land based incinerators are largely unknown." "The possible long term consequences to human health of a continuing program of incineration needs evaluation." Advisory Committee Report p.47.

34. The CIC permit as presently conditioned should be denied. Any permit for such a facility should be conditioned upon prior study of the long terms effects of such an incinerator on the soil, wildlife and population of the surrounding area.

WHEREFORE, Petitioners Northwest Side Community Alliance and Cari Backes request the Administrator reverse the permit decision on the CIC hazardous waste facility, deny the permit as present conditioned, and amend any future petition in accordance with the conditions set forth above. In the alternative Petitioners request the Regional Administrator to hold an evidentiary hearing on the

above described issues and/or reopen the public comment period and provide for a panel hearing under subpart F40 CFR §124.

Dated this 29th day of October 1985.


MARIANNE GOLDSTEIN ROBBINS
Goldberg, Previant, Uelmen, Gratz,
Miller & Brueggeman, S.C.
788 N. Jefferson Street
Milwaukee, WI 53202
(414) 271-4500

Attorneys for Northwest Side Community
Alliance and Cari Backes.

STATE OF WISCONSIN

CIRCUIT COURT
CIVIL DIVISION

MILWAUKEE COUNTY

THE NORTHWEST SIDE COMMUNITY
ALLIANCE, INC., A Wisconsin Non-
Profit Corporation,

Petitioner

v.

THE DEPARTMENT OF NATURAL
RESOURCES,

Respondent.

FILED

MAY 9 1985

GARY J. BARCZAK
CLERK OF COURTS

670276

HON. PATRICK J. MADDEN BR. 31

CIVIL M

PETITION FOR JUDICIAL REVIEW
WIS. STATS., §§227.15, 227.16

NOW COMES petitioner, The Northwest Side Community Alliance, Inc. and, pursuant to §§227.15 and 227.16, Wis. Stats., petitions for judicial review of the Determination of Feasibility issued on May 6, 1985, and the Environmental Assessment issued on May 1, 1985 with respect to the Commerce Industrial Chemicals, Inc. proposal for a hazardous waste, storage and incinerator facility, and states as follows:

1. Petitioner Northwest Side Community Alliance, Inc. (hereinafter the "Alliance",) is a Wisconsin non-profit corporation representing Friends of Havenwood, Inc. North Milwaukee Concern, Inc., North Milwaukee Action Inc., McGovern Community Park, Inc., and whose total membership is approximately 600 persons, all of whom

Exhibit B

reside in the City and County of Milwaukee, State of Wisconsin, and many of whom reside in close proximity to the facility owned by Commerce Industrial Chemicals, Inc. The Northwest Side Community Alliance Inc. is located at 3520 West Villard, Milwaukee, Wisconsin 53209.

2. Respondent, Department of Natural Resources, (hereinafter "DNR" or "Department") is an administrative agency within the meaning of §227.01, Wis. Stats. Its mailing address is P.O. Box 7921, Madison, Wisconsin 53707.

3. On May 1, 1985 the Wisconsin Department of Natural Resources issued an environmental assessment of the feasibility report for hazardous waste storage and incineration facilities prepared by Commerce Industrial Chemicals, Inc. a Wisconsin corporation with facilities located at 5611 West Woolworth Avenue, Milwaukee, Wisconsin. (hereinafter "CIC") The environmental assessment erroneously concluded that an environmental impact statement was not required prior to final action by the Department on the proposed hazardous waste storage and incineration project proposed by CIC. A copy of the Assessment is attached hereto as Exhibit A.

4. On May 6, 1985, the Department of Natural Resources issued a determination of feasibility for an existing storage and proposed incineration facility proposed by CIC erroneously finding the hazardous waste facility proposed by CIC to be feasible. A copy of the Determination is attached hereto as Exhibit B.

5. Petitioner has an interest in the Department decisions described above, because many of its members reside in close proximity to the proposed hazardous waste facility site and is aggrieved by the DNR's decision because those decisions will permit CIC to go forward with plans to construct and operate a hazardous waste facility which could seriously threaten the health, safety, and property of its members.

6. Both the fairness of the DNR proceedings and the correctness of its actions in issuing both the environmental assessment and the determination of feasibility were impaired by material errors in procedure. In reaching its decisions, the Department failed to comply with the procedural requirements of §§144.44 and 1.11 Wis. Stats. 7. The Department failed to comply with the requirements of §1.11 Wis. Stats. that an environmental impact statement be prepared on every major action significantly affecting the quality of the human environment.

8. The Department failed to comply with the provisions of §144.44(2)(j) that required a hearing on an environmental impact statement and a determination of the adequacy of the environmental impact statement before proceeding with the feasibility report review process.

9. The Department failed to follow the procedure outlined in §144.44(2) when it proceeded with a hearing on the feasibility report before the feasibility report was complete as required by §144.44(2)(j) and (k).

10. By failing to require completion of the feasibility report and an environmental impact statement prior to notice and hearing on the feasibility report, the Department precluded Petitioner Alliance and its members from the opportunity of providing meaningful input into the DNR's feasibility determination and environmental assessment. Information concerning the level of heavy metals, particularly chromium and lead in the hazardous waste to be processed as well as the existence and quantity of other hazardous substances, precluded meaningful comment on the inadequacy of the CIC proposal.

11. The Department erred in its interpretation of §1.11 Wis. Stats. in concluding in its environmental assessment that no environmental impact statement was necessary for the proposed CIC hazardous waste facility and in concluding that the Department had complied with the requirements of §§144.44 and 1.11 Wis. Stats. in its determination of feasibility.

12. The Department erred as a matter of law in its feasibility determination when it concluded that CIC had complied with the requirements of §144.44(2) Wis. Stats. and the requirements of Chapters NR 181.42, 181.43, 181.45 and 181.46 of the Wisconsin Administrative Code.

13. The Department's determination that Commerce Industrial Chemical's feasibility report is complete and acceptable is unsupported by substantial evidence and in error as a matter of law. The report fails to provide information concerning the

composition and quantity of hazardous waste to be incinerated, estimated quantities and characteristics of wastes resulting from facility operations, parameters of combustion temperature, flue gas flow rate in monitoring methods, and related requirements set forth in NR 181.45 and 181. 46 Adm. Code.

14. The DNR erred in its interpretation of §144.44(2), Wis. Stats. when it found the CIC feasibility report to be complete and acceptable when the report failed to provide a description of the advisory process undertaken by CIC prior to submittal of its feasibility report to provide information to the public and affected municipalities and to solicit public opinion on the proposed facility.

15. The Department's environmental assessment is not supported by substantial evidence in the record, rather, the facts compel a finding that CIC's proposal for a hazardous waste facility requires an environmental impact statement under §1.11 Wis. Stats. The CIC report proposes to incinerate hazardous substances, including still bottom sludge with significant heavy metal content. The environment assessment does not adequately address the increased air pollution, the potential for fire or explosion either at the site of the CIC facility, or while waste is in transit to or from the facility, the lack of protection or security for the incinerator and feeder tank, the potential for pollution of ground water, the near proximity to the Havenwood Forest Preserve and to endangered species

located there, and the impact on the social and economic environment in close proximity to the CIC facility.

16. The Department exceeded its range of discretion and acted in direct opposition to agency rules NR 181.42, 181.43, 181.45 and 181.46, when it determined that CIC's feasibility report was acceptable notwithstanding the failure of the feasibility report to establish minimum and maximum operating temperatures, combustion gas velocity, the composition and quantity of hazardous waste or mixtures of hazardous waste to be incinerated, the estimated quantities and characteristics of wastes resulting from the facility's operation or methods of their treatment or disposal, means of maintaining temperature of the incinerator, and precaution against sudden decrease in temperature, criteria and testing procedures to determine percentage of solids and water in waste to be processed, testing procedures which screen for hazardous constituents listed in NR 181.16 Table VI, adequate fire prevention equipment or planning adequate procedures or planning in the case of major treatment facility breakdown.

WHEREFORE, Petitioner Northwest Alliance prays for the following relief:

1. An order reversing the environmental assessment of the Department and holding that an Environmental Impact Statement

is required on the CIC proposal for a hazardous waste storage and incineration facility.

2. An order reversing the feasibility determination issued by the Department of Natural Resources and holding that the proposal for a hazardous waste incineration and storage facility at the CIC location at 4511 Woolworth Avenue, Milwaukee, Wisconsin, is not feasible.

3. An order that the Department of Natural Resources comply with the hearing requirements of §144.44(2)(j),(k),(l),(m) prior to the issuance of an Environmental Impact Statement or a new feasibility determination.

4. An order restraining the Department of Natural Resources from proceeding any further on CIC's application, including making any determination with respect to the Plant of Operation or the Lincese.

5. An order awarding the Petitioner the costs of this action and actual attorney's fees.

6. Such other and further relief as the Court may find just and proper.

Dated at Milwaukee, Wisconsin this 31st day of May, 1985.

/s/ Marianne Goldstein Robbins
MARIANNE GOLDSTEIN ROBBINS
JOHN UELMEN
Goldberg, Previant, Uelmen,
Gratz, Miller & Brueggeman, S.C.
833 N. Jefferson Street
P.O. Box 92099
Milwaukee, Wisconsin 53202
(414) 271-4500

CITY OF MILWAUKEE

Form CA-43

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PATRICK J. LUBENOW
Assistant City Attorneys

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OCT 30 1985

SWB - AIS
U.S. EPA, REGION V

October 28, 1985

Mr. Lee Thomas
Administrator, U.S. EPA
401 M Street, S.W.
Washington, D.C. 20460

Regional Administrator
U.S. EPA, Region V
Waste Management Branch
230 South Dearborn Street
Chicago, IL 60604

Att: Ronald McCallum (A-101)
Judicial Officer

Att: Karl J. Klepitsch, Jr.

Re: Commerce Industrial Chemicals
5611 West Woolworth Avenue
Milwaukee, WI 53218
WID 980795181

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OCT 29 1985

**REQUEST FOR REVIEW UNDER 40 CFR 124.19 OR FOR
AN EVIDENTIARY HEARING UNDER 40 CFR 124.74**

SOLID WASTE BRANCH
U.S. EPA, REGION V

Dear Sirs:

The City of Milwaukee seeks a review, or an evidentiary hearing, relative to the Resource Conservation and Recovery Act (RCRA) hazardous waste management permit which the U.S. EPA issued on September 27, 1985 to Commerce Industrial Chemicals, Inc. (CIC), 5611 West Woolworth Avenue, in the City of Milwaukee. It is difficult to understate the City's strong feelings concerning the issuance of this permit to a facility located in the midst of a densely populated area within its borders. The operation of a hazardous waste incinerator 400 feet from a residential area establishes a precedent in our community, one that presents a) sufficient reasons for the Administrator to review the discretion exercised by the Regional office, and b) important policy considerations which the Administrator should, in his or her discretion, review. 40 CFR 124.19(a)(2).

COPY/

Lee Thomas, Administrator
Regional Administrator

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October 28, 1985

Additionally, there were errors of law and fact contained in the Response to Comments attached to the Regional Administrator's decision, which formed the basis of the final decision to issue a permit. 40 CFR 124.19(a)(i); 40 CFR 124.74 (Attachment 1).

A brief statement of the reasons supporting the City's request follows. The City asks that it be allowed to make a record, through briefs and affidavits, or through testimony presented at an evidentiary hearing, so that an adequate and effective showing of our concerns can be made.

**I. ISSUES RAISED ON THIS REVIEW WERE RAISED
DURING THE PUBLIC COMMENT PERIOD**

On November 1, 1984, the EPA conducted a public hearing concerning its intent to permit a hazardous waste storage treatment and incinerator facility at 5611 West Woolworth Avenue inside the City of Milwaukee. Appearing on behalf of the City of Milwaukee at that hearing was Mr. Frank Bartak, Deputy Commissioner of the Building Inspection and Safety Engineering Department of the City of Milwaukee. The testimony presented by Mr. Bartak appears in the transcript of that public hearing, which is available to the Administrator. On November 12, 1984, in a letter attached hereto as Attachment 2, Mr. Bartak reiterated his oral testimony and expanded on the City's position. The reasons presented in this request for a review or evidentiary hearing were raised during the comment period by the City of Milwaukee.

**II. STATEMENT OF REASONS SUPPORTING
REVIEW OR EVIDENTIARY HEARING**

A. In his Response to Comments, the Regional Administrator relied heavily upon the environmental assessment conducted by the Wisconsin Department of Natural Resources (DNR). In fact, a great deal of the Regional Administrator's rationale and factual justification for issuance of the permit was grounded in, and referred to, the DNR's assessment and decision not to prepare an Environmental Impact Statement (EIS).

Lee Thomas, Administrator
Regional Administrator

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October 28, 1985

No mention whatsoever was made by the Regional Administrator of the fact that there is currently pending in the Circuit Court of Milwaukee County the case of City of Milwaukee v. Wisconsin Department of Natural Resources, Case No. 670-795, in which the City of Milwaukee has challenged the propriety and accuracy of the DNR's decision and assessment. The Northwest Community Alliance is attempting to join in that lawsuit. The court has set a briefing schedule; those briefs will contain much technical data, as well as procedural objections, relative to the DNR's determinations. (Attachment 3).

A ruling in favor of the City in its challenge to the DNR would very likely result in a voiding of the environmental assessment conducted by the DNR, and might necessitate the preparation of an EIS. As a result, reliance by the Regional Administrator on the DNR's submissions and findings was misplaced and premature, and might prove to be erroneous. We note that the City's petition to the court was filed more than three months before the Regional Administrator's decision to issue a permit. We ask that action by the EPA on CIC's application for a permit be deferred at least until disposition of the City's court challenge to the DNR. The City believes that it would be irresponsible to site a hazardous waste incinerator near a residential area without fully informing the residents of its environmental consequences.

B. The facts do not support the 99.9% destruction and removal efficiency projected, nor do the facts support the conclusion that the CIC incinerator can be operated in a clean and pollution-free manner without requiring any air pollution control devices.

The permit issued by the EPA requires absolutely no air pollution control devices to be placed on the incinerator, despite the fact that toxic wastes are being burned 400 feet from a residential area, and near the Havenwoods Environmental Awareness Center. Incredibly, the determination not to protect the residents or the environment in any way was made without the

Lee Thomas, Administrator
Regional Administrator

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October 28, 1985

benefit of an environmental impact statement, and without considering certain key facts.

Obviously, the conclusion that there would be 99.9% efficiency in the burning of these toxic wastes is founded on the premise that the incinerator would be working at optimum efficiency at all times. While most incinerators of this magnitude may operate 12 or 24 hours per day, it is proposed that the CIC facility would be working approximately 8 hours per day. This means that the stop/start time on the incinerator, during which it is not working at optimum capacity, would comprise a much larger percentage of the overall operation time. The time during which the incinerator is not functioning properly would also be unprotected.

Further, and most important, neither the EPA nor the DNR really know what is going to be burned. In fact, CIC represented in its own application filed on September 19, 1984 (Part B, page iii) "Our Type II waste is not a 'waste stream' but a variety of wastes from a variety of processes and sources. It is for this reason that we cannot list a specific number as a chlorine content." CIC will not be burning pure chemicals; it will be incinerating the hazardous wastes from different companies. It was admitted during the EPA hearing that heavy metals were contained in the emissions and wastes. No one can predict, on any given day of the incinerator's operation, what chemicals and in what combination will be in the incinerator.

This variability was not taken into account in the test burns performed prior to the issuance of the permit. The U.S. EPA Science Advisory Board committee report of April 5, 1985 stated that incineration technology is currently imperfect, and recommended that:

"The emissions and effluent of hazardous waste incinerators need to be analyzed in such a way that the identity and quantity of the chemicals released into the environment, including their physical form, can be estimated. The Agency

Lee Thomas, Administrator
Regional Administrator

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October 28, 1985

should develop a revised destruction efficiency paradigm so that its assessment of incineration performance can account for the variability of emissions and effluents.

The EPA Advisory Board went on to state that the reliance on destruction efficiencies as presently defined, to estimate the quantity and quality of all generated incinerator emissions, is "scientifically inadequate." (Recommendation No. 2, page 20, Attachment 4).

The City again stresses that this incinerator will be placed in the midst of a densely populated city, and 400 feet from a residential community. It is the EPA's own policy to keep potentially harmful substances away from human contact where possible. The permit was issued without an EIS and requires no air pollution control devices.

C. The precedential impact of this permit could be devastating for our community. Even though the Regional Administrator in his Response to Comments attempted to sidestep this issue, it is inevitable that other companies in the City of Milwaukee will now apply for similar permits with the DNR and the EPA. We know that there are almost 200 companies generating hazardous wastes in the Milwaukee area which, for economic reasons, would benefit from operating their own or joint hazardous waste incinerators. We ask for the opportunity to present evidence on this point. It is similarly inevitable that the EPA, having performed an evaluation of one incinerator within the City of Milwaukee, would utilize the same reasoning and factual determinations already on the record when evaluating new applications.

This is obviously a controversial issue. People in the area are concerned about their property values, inasmuch as it was freely admitted that foul odors are associated with this type of facility. All of this justifies a review or an evidentiary hearing before the permit takes final effect.

Lee Thomas, Administrator
Regional Administrator

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October 28, 1985

CONCLUSION

The EPA itself has referred to the CIC incinerator as a "major hazardous waste management facility" [emphasis added], when it tentatively decided on September 24, 1984 to issue a permit. It is undisputed that a failed hazardous waste facility in or near a residential area will have greater health and safety impacts than one which is located in a remote area. The City asks that the EPA give local residents the same concern for "buffer zones" as does the Department of Housing and Urban Development, and the Federal Department of Transportation when they locate or prepare guidelines for siting of facilities.¹

The City of Milwaukee is prepared to offer expert testimony, and has contacted an environmental engineer in this regard. His testimony is expected to contain the conclusion that the residents in this area would be unduly exposed to a danger by the issuance of this permit. We ask again for the opportunity to present his testimony, and other data and testimony, through briefing or an evidentiary hearing. We would anticipate that the factual areas described above could be adjudicated at an evidentiary hearing in two days. (40 CFR 124.74).

¹HUD Safety Considerations in Siting Housing Projects, Dec. 1975, 117 pp.; "Environmental Criteria and Standards, Siting of HUD-Assisted Projects Near Hazardous Operations Handling Petroleum Products or Chemicals of an Explosive or Flammable Nature," Federal Register, 24 CFR Part 51, Vol. 49, No. 29, February 10, 1984, pp. 5100-5108; U.S. Department of Transportation, Hazardous Materials, 1980 Emergency Response Guidebook, DOT-P 5800.2, 1980.

Lee Thomas, Administrator
Regional Administrator

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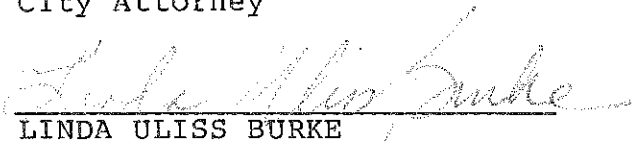
October 28, 1985

The City of Milwaukee is not opposed to incinerating hazardous wastes, and recognizes that in many situations this form of waste disposal may be the safest and most desirable. However, the City is opposed to such an incinerator being placed in a heavily-populated area, particularly without any environmental impact statement and with no requirement for air pollution control devices.

Very truly yours,

CITY OF MILWAUKEE

GRANT F. LANGLEY
City Attorney



LINDA ULISS BURKE
Assistant City Attorney

LUB:pml
enc.

cc: Commerce Industrial Chemicals, Inc.
Northwest Community Alliance
Department of Natural Resources

Kenneth J. Menz
6424 N. 56th Street
Milwaukee, WI 53223

June 13, 1985

RECEIVED

Environmental Protection Agency
Region V. Waste Management Division
230 S. Dearborn Street
Chicago, IL 60604

JUL 02 1985

SOLID WASTE BRANCH
U.S. EPA, REGION V

Attention: Mr. Michael Ohm

Dear Mr. Ohm,

On Friday, May 31, at 10:00 A.M., I toured Commerce Industrial Chemical as a neighbor and a representative of the Northwest Community Alliance, Environmental Protection Committee. I do not claim to be a certified inspector, however, working in the industrial maintenance field for many years, I feel I am somewhat qualified to address some of the hazards I noticed on our walk through the facility. Let me just say before I go into the hazard descriptions, that I find it very difficult to understand the lack of safety procedures, devices, equipment and housekeeping when Mr. Michalski states his strong commitment to safety through training seminars for himself and his employees at least once a year. The list that follows consists of basic common sense safety items and probably just the tip of the iceberg. In my opinion, this facility is operated in a very sloppy, inefficient and dangerous way, posing a very high degree of danger to its employees and the general public. It seems very evident to me that C.I.C. doesn't believe in a safe facility environment unless it is forced to do so or it is a prerequisite to further its business operation.

It was mentioned earlier that a worst case explosion was almost impossible. After our tour, I am convinced that such a disaster is not only possible, but probable. I think the source of ignition is probably one of the most important hazards and should be addressed immediately. Considering this is a Class 1, Division 1 location, according to the national codes, it is my belief that all the conduit (metal tubing within which wires are run) be of the rigid type, threaded into explosion proof fixtures, fittings, etc.. At the present time, this was not evident.

It shall also be noted that two (2) service drops (where power enters the building) enters the building in the Northeast corner directly adjacent to future feeder tank and present storage of flammables. The distribution panels where the power from the service drops is distributed throughout the facility are equipped with make or break type circuit breakers. Just below these panels is an air compressor which is again equipped with the make or break type switching apparatus. These make or break devices produce spark when turned off or on, which is definitely a source of ignition. There are also a number of electric motors in various locations which I feel also meet the requirements for ignition. To make things even more dangerous, right in the same room, a vehicle was having its battery charged, thus producing a highly explosive hydrogen gas.

That brings up another important problem - that of ventilation. To my knowledge, there was very little, if any, to disperse this hydrogen gas or any other fumes from flammable or hazardous materials. I doubt the efficiency of windows near the top of the building for proper ventilation considering the specific gravity of some of the vapors which are released.

in the waste room or where the feeder tank is presently located.

Moving on to the plywood walls, which owner said would be replaced, will automatic door closers be installed to isolate hazardous waste area from the rest of the warehouse in case of fire? There are also questions about the sprinkler systems ability to extinguish fires associated with aluminum pastes and or powders which are stored adjacent to the waste room. Research seems to indicate that water and in some cases carbon dioxide or dry chemical extinguishers will not only be ineffective, but could increase the risk of explosion producing pressures in excess of 100 pounds per square inch. Could this building and the contents within it withstand such an explosion?

It is also my understanding that the walls of this hazardous and flammable area must be blank and have a fire retention of two (2) hours. The East wall is constructed with concrete block with large windows. To my knowledge, concrete block will not retain fire for this required 2 hour period. On this same wall, there are also two cracks from the corners of the windows to the top of the building. This can be observed from the outside of the building.

At maximum storage capacity, how many square feet of floor area will be used by drums of waste, flammable, etc. and what is the output of the sprinkler system per second? I think both of these factors are very important in determining if the proposed 3"-4" curb will retain the chemicals and water, if a spill and fire develop. I also think it is important that the sewer in the dock area be investigated for its condition and route or routes. Does it enter the city sewer system? If there is an accident which results in a spill on this dock, chemicals will enter this sewer receptical.

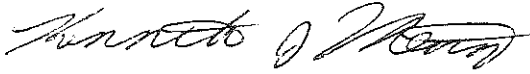
As for the housekeeping, within this facility there was a white powder everywhere, even in the office and lab. Is this powder flammable or explosive or could it be in a heat or fire situation? Is it hazardous to health induced through the respiratory system or skin contact? This brings up another thought of employees safety. Are there any protective measures presently initiated to protect these people from exposure to hazardous chemicals such as safety glasses, gloves, etc. or is there emergency equipment such as emergency eye/shower units? In fact, I did not see a first aid kit anywhere in the areas I toured.

Another thing that bothers me is if a spill condition does exist, will there be a chemical reaction from chemical to chemical, chemical to water, chemical to metals, wood or concrete, chemical to heat, chemical to atmosphere, etc.. One last thing that comes to mind is labeling. C.I.C. has labeled many of their drums with masking tape and felt tip marker. Is this the professional, proper or exceptable means of labeling? Doesn't this leave an avenue open for costly errors?

In conclusion, I would first like to thank you for listening to what I think are important issues to be resolved concerning C.I.C.'s storage facility. In my opinion, a technical and comprehensive inspection by the electrical inspection department, the fire department and the U.S. Department of Labor Occupational Safety and Health Administration would be very beneficial to C.I.C., its employees and the general public. In the present condition, I feel this facility is an accident waiting to happen.

Unless these national and local codes are met and maintained, C.I.C. will continue to pose a danger to our community and the people who live within it. Let's face it, we are not talking about a home, a factory or warehouse. We are talking about a "hazardous waste site" less than 300 feet away from a heavily populated area.

Respectfully Yours,

A handwritten signature in cursive script, appearing to read "Kenneth J. Menz".

Kenneth J. Menz
Member of the N.W. Community Alliance
Environmental Protection Committee
Resident

JUNE 24 1985

THE MILWAUKEE JOURNAL

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EPA invites toxic free-for-all

The fallout from last December's catastrophe at Bhopal, India, was more than chemical. That poisonous gas leak, which took the lives of 2,000 people, prompted some needed corporate soul-searching, as well as government initiatives aimed at preventing more such disasters abroad and within the United States.

But who is taking the lead to control the millions of tons of toxic chemicals that routinely belch into the air each year from plants across the US?

Regrettably, not the federal Environmental Protection Agency. Although it was given authority to regulate such emissions under the Clean Air Act of 1970, the EPA has set standards for only eight hazardous air pollutants. The agency is compiling information on others, but unwisely wants to let states and localities decide whether to regulate many of those substances. States that did so would get EPA assistance.

EPA Administrator Lee Thomas argues that some pollutants are "site specific" — that is, they pose strictly local hazards that are best regulated by officials close to the problem. But the same argument could be made about wood-burning stoves, a pollution source that the agency is planning to regulate. And even with the EPA's help, some state or local jurisdictions will not have adequate resources — much less the political will — to develop sound standards for many toxic pollutants.

Indeed, given the fierce regional competition for industry, the EPA plan seems an invitation to economic warfare. States desperate to lure or retain industry can be expected to opt for lax regulation, risking public health and leaving the conscientious states at a competitive disadvantage. It was precisely that sort of chaos and inequity that the Clean Air Act was designed to avoid.

Sens. Daniel Moynihan of New York and

Frank Lautenberg of New Jersey sensibly plan to introduce legislation blocking the EPA from delegating its regulatory authority to the states. In addition, Rep. Henry Waxman (D-Calif.) and other congressmen have proposed legislation that would force the EPA to develop standards for 85 toxic emissions, many of them known to cause cancer.

It's unfortunate that lawmakers should be in the position of telling a regulatory agency how to regulate. But it's a dirty job and somebody has to do it. If the EPA ducks its duty, then it must expect congressional meddlers to step in.

FEB 20 1985

Re: Commerce Industrial Chemicals
Milwaukee, Wisconsin
WID 980-795-181

As requested during a telephone conversation between Mr. Allen A. Debus of my staff and Mr. Ed Lynch of the Wisconsin Department of Natural Resources - Hazardous Waste Management Section (WDNR), I am mailing a draft copy of our Responsiveness Summary for Commerce Industrial Chemicals (CIC). As the draft represents only a "pre-decision" document which was not yet received the final concurrence of all permit reviewers, including our Regional Counsel, it should be held confidential. A final version of the Responsiveness Summary will be available at such time when a final determination has been made of the Resource Conservation and Recovery Act (RCRA) permit for CIC.

Sincerely yours,

Enclosure



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OCT 29 1985

SOLID WASTE BRANCH
U.S. EPA, REGION V

Building Inspection and Safety Engineering

November 12, 1984

Lee C. Jensen
Commissioner

Frank Bartak
Deputy Commissioner

Mr. Karl J. Klepitsch, Jr., Chief
Waste Management Branch
United States Environmental
Protection Agency, Region V
230 South Dearborn Street
Chicago, Illinois 60604

RECEIVED

OCT 30 1985

SWB - AIS
U.S. EPA, REGION V

Mr. Klepitsch:

This letter follows up on the oral testimony I presented on behalf of the City of Milwaukee at the November 1st public hearing on EPA's intent to permit a hazardous waste storage, treatment, and incinerator facility (Commerce Industrial Chemicals, Inc.) at 5611 West Woolworth Avenue, Milwaukee. This letter reiterates and expands on the City's position on this matter.

A. The City of Milwaukee is unalterably opposed to the proposed hazardous waste storage, treatment, and incinerator facility at 5611 West Woolworth Avenue in the City of Milwaukee for the following reasons:

1. The site is too close to residential areas. The attached land use quarter section map (scale 1"=200 ft.) of the proposed site shows that this facility is only about 400 feet from a residential area to the north. Further, the proposed facility is adjacent to three other manufacturing structures. On this basis the proposed facility is not compatible with surrounding land uses.
2. Present City zoning ordinances prohibit incineration of hazardous waste; at best, a hearing before the Board of Zoning Appeals for a special use exception would be required.
3. At the present time the company has no occupancy permit from the City of Milwaukee for this type of operation.
4. The company was located and started operating on this site without first having obtained an occupancy permit from the City of Milwaukee Building Inspection Department. This is in violation of Section 15-1 of the Milwaukee Building and Zoning Code.

B. Alternative sites away from any residential area or non-compatible commercial uses should be considered so as to protect public health.

Attachment 2

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C. In addition, regardless of where the proposed facility is located in the future, answers to the following questions should be provided and incorporated into an EIS before a permit to store, treat and incinerate hazardous wastes is granted to the company. We have also identified relevant portions of the draft permit which need to be changed to incorporate additional safeguards, after answers to these questions become available.

1. What specific air pollutants (criteria air pollutants, hazardous air pollutants, odor, etc.) and how much, are anticipated from the facility? What pollution control equipment is required of the company and how much hydrogen chloride will be emitted by the facility? (See Page 16 of Draft Permit.)
2. How will the hazardous ash be disposed of? (Page 16 of Permit.)
3. Are the chosen transportation routes for the company's chemical trucks the optimum routes from the standpoint of public safety? What alternatives to the routes listed on Page B-2 (Part B of application) have been considered? Shouldn't the permit require that trucks used be clearly labeled with the company's name indicating that the trucks carry hazardous cargo? (Note: It is important that the routes for these hazardous cargoes be confined to expressways and avoid passing through residential areas, as much as possible.) As soon as this optimum route is identified, this should be added as a condition of the permit.
4. In the treatment and reclamation of hazardous wastes, what water effluents, and how much (if any) are anticipated? Where will process water, if any, go? What kinds of process water monitoring (contents, concentrations) will take place, and how often? Who will conduct the monitoring? (See attached letter from Mr. Ed Laszewski, City Engineer, to the Building Inspection Department.
5. In the event of a "worst case" explosion, fire or any "noncompliance" (Page 6, and Attachment 4, of Draft Permit)(See also the attached table):
 - a. How large is the potential fireball?
 - b. How far will the potential blast reach?
 - c. How will the company assure that the records in the building, as well as the protective equipment, will be readily available so that emergency response can be facilitated? Is the interior fire fighting system adequate to suppress chemical fires and protect the workers?
 - d. Shouldn't the entire facility -- and the containment area separating the hazardous storage area from the rest of the facility -- be required to have a firewall and a chemical explosion suppression system vented vertically to protect nearby areas?

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- e. Given the types of virgin chemicals and hazardous wastes stored, what toxic fumes are anticipated?
 - f. Where will the toxic fumes likely go, and how would they affect nearby areas?
 - g. What would be the plume characteristics of the smoke and toxic fumes?
 - h. Why is there no community evacuation plan in the company's contingency plan? We note that the document only includes a plan to evacuate company personnel, despite the facility's proximity to other manufacturing and residential areas.
 - i. Why is the City of Milwaukee's Emergency Government Administration not listed in the agencies to be notified? (Contact: Mr. James Kondziella, Coordinator, Emergency Government Administration; Telephone Number: 278-5503, office/464-7439, home.)(See attachment of November 6, 1984 memo from James Kondziella to Frank Bartak, Deputy Commissioner of Building Inspection.)
 - j. In case of a spill, is sufficient internal ventilation provided to expel any hazardous fumes? What provisions are made to prevent the fumes from escaping into the ambient air, and any hazardous substances from getting into the sewer system or over surface storm water drainage channels?
 - k. Who would pay for the special training and equipment of the Milwaukee Police and Fire Departments who are expected to respond to an emergency in the facility?
6. How compatible is the proposed hazardous waste storage, treatment, and incinerator facility to the area's zoning and surrounding land uses?
7. What is the degree of community acceptance of this proposed hazardous waste storage, treatment and incinerator facility?
8. What would be the impact of this facility on values of surrounding properties?
9. To help prevent accidents (Page 8 of Permit Draft):
- a. Shouldn't a vapor control system be provided to prevent vapor accumulation of hazardous gases inside the building? What provisions will there be to prevent hazardous gases from escaping into the atmosphere?
 - b. Shouldn't noncompatible chemicals be physically separated by independent containment systems and a firewall?
10. Exactly how many drums (maximum) of hazardous waste will be incinerated per 8-hour day, and who will monitor and inspect, (and how often) the company's "burn rate", type of chemical burned, contents

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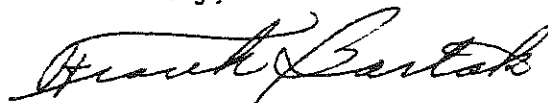
10. (Continued)

of waste stream and contents of air stream, to assure that no more than the allowed amount and type are burned. (Note: At the public hearing, somebody mentioned "no more than three drums a day," while the Part B application states "no more than one drum per day" (DNR-1). No operation limits -- time of day, throughput, etc. -- are indicated in Page 17 of Draft Permit.

11. What alternatives to incineration have been considered? Is reclamation of the hazardous waste technically feasible or more environmentally appropriate or safe?
12. Shouldn't the company be required to deposit an amount in escrow sufficient to assure proper closure of the site in case the company goes bankrupt or out of business? Is \$10,375 on Appendix 28 (Part B Application) adequate? Shouldn't the company be required to decontaminate the whole site, not just the storage area, and pay for an independent soil analysis of the premises? (Page 10 and Attachment 5 of draft Permit.) We are painfully aware of the EPA's superfund involvement in the case of the Rodgers Crown Laboratories, Inc. at 4135 South 6th Street, and we would not like to see this incident repeated elsewhere. The estimated cost of closure for this facility was \$250,000.

We hope that these questions demonstrate the seriousness of our concerns regarding the proposed hazardous waste storage, treatment and incinerator facility -- clearly a precedent -- in the City of Milwaukee. On Page 5 of the draft Permit, EPA requires the company to "assess the actual or potential hazard to the environment and human health outside the facility..." (under-scoring supplied) "in case of any noncompliance with the permit." This is an after-the-fact concern. We suggest that the proper way to proceed is to get this information for public scrutiny before a permit for any such facility is granted. In this vein, we request that another public hearing on this proposed facility be held by EPA as soon as answers to these questions become available.

Sincerely,



Frank Bartak
Deputy Commissioner

FB:er

Attachments

cc: Gerald Kleczka
James Moody
Michael Ohm, EPA, Region V
Carroll Besadny, DNR, Madison



NOV 7 1984

Emergency Government Administration

Mayor Henry W. Maier
Director
James Kondziella
Coordinator

DATE: November 6, 1984

TO: Frank Bartak, Deputy Commissioner
Building Inspection & Safety Engineering

FROM: James Kondziella, Coordinator
Emergency Government Administration

RE: PROPOSED HAZARDOUS MATERIALS FACILITY AT 5611 WEST WOOLWORTH

In response to your memo concerning this matter I would like to elaborate on this department's experience during the Rodgers Lab incident.

The EPA declared Rodgers Crown Lab, 4135 South Sixth Street, a hazardous materials emergency cleanup site in September of 1983. During the next two months the city was heavily involved in assisting the EPA during this cleanup. As the coordinating agency, Emergency Government developed contingency plans for the area in case of an accident during the cleanup operations. These plans included opening up emergency evacuation routes for nearby residents, providing emergency warning, transportation and shelter, rerouting traffic in the area, hosting two public information meetings and relocating three households adjacent to the cleanup area.

City departments providing manpower and resources to respond to this emergency operation included Fire, Police, D.P.W., Health, Building Inspection and the School Board. At the time of the emergency I was assured by EPA representatives that the city would be reimbursed for its expenditures. To date, no compensation has been received.

In addition, I found that the EPA was totally inexperienced in managing a hazardous materials cleanup in a densely populated residential area. Their experience was limited to industrial or rural cleanup operations and consequently, they mishandled several aspects of the Rodgers Lab operations.

It is because of my experience here that I am strongly opposed to the granting of authority to hazardous materials treatment facilities in the city, closely adjacent to residential areas. The danger cannot be minimized while, at the same time, the ability of management to effectively cope with an accident must be questioned.

Mr. Frank Bartak
November 6, 1984

Page 2

Ultimately the responsibility of dealing with an emergency at such a facility will fall to local government, not state or federal. I don't believe that it is fair to make the local taxpayer shoulder this burden, especially when alternatives for processing hazardous materials exist.

JK:MD:nk

property. Havenwoods Forest Preserve and Urban Nature Center is located south of the CIC facility across the Chicago Northwestern Railroad right-of-way.

PROPOSED FACILITY DESIGN AND OPERATION

Commerce Industrial Chemicals' feasibility report consists of a proposal for hazardous waste storage and incineration. Total proposed storage quantity is 21,898 gallons. The incinerator will operate 8 hours per day at a waste feed rate of 15 gallons per hour \pm 10%. Projected annual quantities of hazardous waste stored include 484,000 pounds per year of Type I waste; 100,100 pounds per year of Type II waste; and 24,000 pounds per year of Type III waste.

CIC stores hazardous waste generated on-site and off-site. CIC generates its own waste through the draining of returned drums, draining of hoses and washing out of tank trucks. The remainder of the hazardous waste stored on-site comes from the Company's customers who purchase raw material products from CIC, use it in their cleaning or manufacturing process, and return it as a hazardous waste.

When possible, hazardous wastes (Type I, Type II or Type III) stored at CIC are reclaimed through solvent recovery operations conducted at an independent off-site facility. Waste that cannot be reclaimed and would not be suitable for incineration at CIC (i.e. halogenated solvents) are shipped off-site for an alternate form of treatment.

Stored wastes will be handled according to whether they can be reclaimed at an off-site facility, whether they can be incinerated on-site, or whether they must be treated at an off-site facility. Reclamation and treatment at off-site facilities may apply to all waste types. Only waste Types I, Is, and II would be incinerated at the facility.

The proposed hazardous waste storage area is an existing 65 by 22 foot storage area (1,430 square feet). The area is located on the inside east wall of the warehouse building about 45 feet south of the north wall. Warning and no smoking signs are posted on the doors to the storage area. This area is kept free of sources of ignition and open flames. All waste types in the storage area are compatible with each other. Wastes are separated by type and labeled to eliminate the possibility of incinerating incorrect waste material or sending incorrect waste material for reclamation or treatment.

All waste containers in the storage area are 55 gallon drums constructed of 18 gage steel. The waste is not corrosive and drum liners are not required. All drums are stored on pallets. Adequate aisle space is maintained to allow for inspections. Weekly inspections will be conducted by CIC to check aisle space, stack height, sealing of drums, labels, pallets, floor, dike ramp and the sump.

An operating log indicating the shipment and the quantity of drums of each waste type will be maintained. This will allow CIC to keep a running balance on the number and type of drums in the storage area. This log will also indicate the dates of incineration or of shipment of hazardous waste to a different hazardous waste management facility.

When the waste itself is picked up by a CIC vehicle, it is taken to the reception section of the hazardous waste storage area until an initial determination can be performed. Once this has been conducted, the waste is assigned a spot in the storage area according to its waste type.

Once the waste has been accepted and verified, appropriate copies of the waste manifest are put together with the chromatograms, lab reports, and waste profile report. They are filed, by generator client, and kept in the operator record for a minimum of three years. The manifest number is recorded on the retained waste sample and the sample is kept for three years.

An operating log indicating the date of shipment and quantity of drums and waste type will be maintained. The operating log also indicates the dates of incineration, or shipment to a reclamation or a hazardous treatment facility.

The waste storage area is located inside the warehouse building. This building is equipped with an alarm system which senses either an intruder or a fire. The alarm is connected to a central security office which then notifies the police and/or fire department and the CIC emergency coordinator. A chain link fence with a barbed wire top will be built surrounding the incinerator.

The container storage area, the waste feed tank and the incinerator all have inspection schedules. The inspections list specific areas that need to be checked in order to prevent releases of hazardous waste from equipment malfunction or structural/material deterioration. The incinerator and waste feed tank are inspected daily. The container storage area is inspected weekly. All inspections are recorded in the inspection log.

Commerce Industrial Chemical has developed a contingency plan to be used in case of a spill or fire. This plan is designed to minimize hazards to human health or the environment from fires, explosions, or waste releases to air, soil, or surface waters.

A personnel training program has been developed by Commerce Industrial Chemical by which each employee is trained in management of hazardous wastes. The personnel operating the incinerator will receive training from the Kelly Company.

Commerce Industrial Chemical has submitted a closure plan covering the actions necessary for closure of the facility at the end of its operating life. This plan includes the removal of waste inventory, the decontamination of the storage area and incinerator, disposal of the decontamination washwater and closure certification by a professional engineer. In addition, a bond covering the cost of this closure is on file with the Department.

Liability insurance will be required prior to license issuance. This liability coverage will be in the amount of 1 million dollars per occurrence and an aggregate amount of 2 million dollars.

2. The Plan of Operation submittal must provide a detailed report concerning the proposed operation of the incinerator. This submittal must specifically cover operational parameters (such as minimum and maximum operating temperatures, combustion gas velocity, and carbon monoxide level in the stack), daily incinerator startup and length of time to startup, daily incinerator shutdown, the waste feed cut-off system, the waste feed rate and the composition of the waste feed. The report must also address incinerator operation during the shakedown period.

3. Waste analysis information indicates the possibility of lead and chromium compounds being in the incinerator waste feed. The plan of operation must include a discussion concerning acceptable levels of heavy metals in the waste feed, the basis for determining those levels, the frequency and method of sampling for metals and the methods of analysis for detecting and quantifying metals.

4. The submittal should specify the secondary fuel source. If a clog or other problems arise with the transfer system, the temperature of the unit must be maintained. A sudden decrease in the temperature could result in damage to the refractory wall.

5. The submittal must include a description of ash testing procedures from the burning of characteristic wastes to determine if it exhibits any hazardous characteristics prior to disposal.

6. The plan of operation submittal should discuss the specific criteria used to determine which wastes will be recycled off-site versus waste which will be incinerated. The criteria should include such items as percent solids and water content levels.

7. This submittal must include a discussion on alternatives that Commerce Industrial Chemicals, Inc., can use to screen wastes for NR 181, Table VI, hazardous constituents. The frequency of testing must also be discussed. There are over 360 constituents in Table VI, therefore, use of a screening system to demonstrate that groups of constituents are not present can be used. This information should include lists of the constituents in each group and tests to be used. A discussion should follow on what will happen to waste found containing constituents that cannot be incinerated at Commerce Industrial Chemicals.

8. The submittal must include a timetable containing dates or time periods by which the following actions will be completed:

- a. Complete construction of the incinerator.
- b. Complete construction of the incinerator fence.
- c. Complete construction of the storage containment system. Plan sheets for these actions must be provided.

9. The submittal must include a maintenance schedule for the following equipment:

- a. Incinerator controls, waste feed cut-off, refractory wall, etc.

11/1/84

IN THE MATTER OF:

A HEARING RE THE ISSUANCE OF A RESOURCE
CONSERVATION AND RECOVERY ACT PERMIT TO
COMMERCE INDUSTRIAL CHEMICALS, 5611 WEST
WOOLWORTH AVENUE, MILWAUKEE, WISCONSIN.

Transcript of Proceedings taken at the instance
of the United States Environmental Protection
Agency, under and pursuant to Chapter 804.05 of
the Wisconsin Statutes and the acts amendatory
thereof and supplementary thereto, before DAVID
W. WAHLBERG, a Notary Public in and for the
State of Wisconsin, taken on the 1st day of
November, 1984, at Webster Junior High School,
6850 North 53rd Street, Milwaukee, Wisconsin,
53223, commencing at 7:00 O'clock in the
evening; reported by David W. Wahlberg of
Wahlberg & Wahlberg Court Reporting Company.

A P P E A R A N C E S

LILLIAN BAGUS, HEARING OFFICER.

ALLEN DEBUS, PRIMARY AUTHOR OF U. S.

1 EPA'S DRAFT PERMIT.

2 BEVERLY THOMPSON, HEARING OFFICER.

3
4 I N D E X

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TRANSCRIPT OF PROCEEDINGS

1
2 MR. DEBUS: All right, then, we'll begin
3 the public hearing.

4 MS. BAGUS: Will the hearing come to
5 order, please. Good evening, Ladies and
6 Gentlemen. My name is Lillian Bagus and I am
7 the hearing officer representing the Chicago
8 office of the United States Environmental
9 Protection Agency. The purpose of tonight's
10 hearing is to receive your comments into the
11 record on the U. S. EPA'S intent to issue a
12 resource conservation and recovery act permit to
13 Commerce Industrial Chemicals to continue to
14 operate an existing hazardous waste storage
15 facility and to construct a hazardous waste
16 incinerator at 5611 West Woolworth Avenue,
17 Milwaukee, Wisconsin. With me on the panel is
18 Allen Debus, primary author of the U. S. EPA'S
19 draft permit. The hearing assistant tonight is
20 Beverly Thompson. Under the Resource
21 Conservation and Recovery Act, commonly referred
22 to as RCRA, the U. S. EPA has promulgated
23 regulations to protect human health and the
24 environment from the improper management of
25 hazardous waste. Section 3005 of RCRA, along

1 with regulations found in Title 40 of the Code
2 of Federal Regulations, establishes a permitting
3 system governing the treatment, storage, and
4 disposal of hazardous waste. These regulations
5 enable the U. S. EPA to issue or deny permits
6 for hazardous waste facilities.

7 If a state is authorized, under
8 Section 3006 of RCRA, it may issue or deny
9 permits in lieu of the U. S. EPA. Since the
10 State of Wisconsin has not yet received the
11 required authorization, the U. S. EPA'S
12 responsible for making a final determination on
13 the Commerce Industrial Chemicals permit
14 application. Additionally, Commerce Industrial
15 Chemicals must meet all state requirements as
16 well.

17 If the U. S. EPA issues a permit to
18 Commerce, the company will be allowed to store
19 hazardous wastes in 55 gallon drums and to
20 construct and operate a hazardous waste
21 incinerator. Under the draft permit conditions,
22 the total quantity of drums stored shall not
23 exceed 396 and the hazardous waste feed rate
24 shall not exceed 15.0 plus/minus 15% gallons per
25 hour. Commerce must comply with all the

1 conditions contained in any permit issued.

2 These conditions, in turn, must satisfy the
3 requirements found in Title 40 of the Code of
4 Federal Regulations. These requirements
5 include: The proper design and maintenance of
6 containers; accident prevention and
7 preparedness; closure; and financial
8 responsibility, among others.

9 Before accepting comments from the
10 audience, Mr. Debus will present the background
11 on the Commerce Industrial Chemicals permit
12 application and on the U. S. EPA'S draft
13 permit. Following that, I will give you a
14 summary of the U. S. EPA public participation
15 activities and requirements, and we will then
16 accept comments from the audience. Mr. Debus.

17 MR. DEBUS: Commerce Industrial
18 Chemicals, Incorporated, is a distributor of
19 petroleum solvents and other industrial
20 chemicals and materials. The facility has been
21 operating under interim status since November
22 19th, 1980 and has been in existence since
23 1948. The Commerce Industrial Chemicals
24 facility consists of one brick and concrete
25 block building of 45,000 square feet with an

1 attached office area of 2,700 square feet. The
2 existing container storage area for the
3 hazardous waste is a 1,430 square foot area
4 located on the east wall of the building. This
5 will be operated according to the provisions of
6 the compliance schedule included in the draft
7 permit. The proposed incinerator and tank
8 storage area will be located inside the building
9 over 50 feet from the facility's property line.

10 Commerce Industrial Chemicals,
11 Incorporated, currently operates a waste storage
12 facility that is qualified under 40 CFR, Code of
13 Federal Regulations, or 270 for interim status,
14 and is also regulated by the requirements of
15 Wisconsin State Code, NR 181. By state law,
16 Commerce Industrial Chemicals cannot operate its
17 incinerator until the state license has been
18 issued. The Wisconsin Department of Natural
19 Resources will remain actively involved
20 throughout the months ahead in the review of
21 Commerce Industrial Chemical's feasibility study
22 and proposed plan of operation, leading toward
23 the determination of whether a state license
24 should be issued for both storage and
25 incineration of hazardous wastes under state

1 regulations. Commerce Industrial Chemical's
2 interim operating license for storage of
3 hazardous wastes, which it has already received
4 from the State of Wisconsin under NR 181, is the
5 State's version of what U. S. EPA refers to as
6 interim status. Commerce Industrial Chemicals
7 also has obtained an air permit for construction
8 of the incinerator from the Wisconsin Department
9 of Natural Resources.

10 However, under federal law, Commerce
11 Industrial Chemicals cannot complete
12 construction of its incinerator until a finally
13 effective Resource Conservation and Recovery Act
14 permit has been issued by the United States
15 EPA. Therefore, this meeting shall instead
16 focus on issues relating to the Federal EPA's
17 proposal to issue a finally effective RCRA
18 permit to Commerce Industrial Chemicals.

19 Our regulations governing hazardous
20 waste management became effective in 1980.
21 Under those regulations, we require facilities
22 to treat, store or dispose of hazardous waste to
23 apply for a federal permit. This must be done
24 even though they may have been operating under
25 state or local permits. Congress recognized

1 that we couldn't review all permit applications
2 for thousands of existing facilities at one
3 time, so we were granted authority to call in
4 permit applications for facilities on a gradual
5 basis, and granted interim status to all those
6 applicants and certain regulatory and
7 operational criteria. Commerce industrial
8 Chemicals met the criteria which allowed them to
9 continue to store hazardous wastes, and
10 submitted their complete application to U. S.
11 EPA in early 1982.

12 Since that time, the U. S. EPA has
13 reviewed the application for completeness,
14 performed a technical review and asked for
15 further clarification. The burden of work was
16 coordinated with the Wisconsin Department of
17 Natural Resources. After we completed our
18 review, the Wisconsin Department of Natural
19 Resources and U. S. EPA prepared a draft
20 permit.

21 In Commerce Industrial Chemical's
22 proposal, which the U. S. EPA has been
23 evaluating for nearly two years, the facility
24 will continue to store hazardous waste at its
25 Woolworth Avenue, Milwaukee, Wisconsin, site,

1 and also construct a hazardous waste incinerator
2 at this location. Hazardous waste storage is
3 conducted in 55 gallon capacity containers.

4 The facility receives waste from its
5 customers who purchase raw materials from them
6 and use them in their cleaning or manufacturing
7 process and return them as wastes. The
8 construction of the incinerator will allow
9 hazardous waste from those and other sources to
10 be incinerated on site. The proposed waste
11 treatment will consist of a feed storage tank
12 leading to the incinerator. Hazardous wastes
13 are classified into one of three groups,
14 depending on analytical screening tests, and
15 Commerce Industrial Chemical's knowledge of the
16 waste stream. The general basis for the
17 classification is determined by whether the
18 waste would be incinerated or reclaimed. One
19 type, hereinafter referred to as Type III, is
20 comprised of spent halogenated solvents. These
21 wastes will not be incinerated by Commerce
22 Industrial Chemicals, but instead shall be
23 stored prior to reclaiming. The other two major
24 categories are both comprised of spent
25 halogenated -- excuse me -- spent nonhalogenated

1 wastes. One of these, hereinafter known as Type
2 I, includes hazardous wastes that have been
3 listed as hazardous because of their
4 ignitability. The other, hereinafter referred
5 to as Type II, has been listed both for an
6 ignitability tendency, as well as its biological
7 toxicity.

8 Each of those wastes will be
9 physically separated from each other to
10 facilitate inventory control and to prevent
11 accidental selection of Type III containers for
12 incineration.

13 Type I wastes, which are ignitable but
14 nontoxic in the view of U. S. EPA, qualify for a
15 exemption in sub part O. of 40 Code of Federal
16 Regulations, Part 264, which reduces the scope
17 of regulatory requirements for incineration of
18 this waste. Since this waste has such a great
19 tendency to completely combust, U. S. EPA
20 believes that it is unnecessary to exert the
21 same level of control over those wastes as is
22 executed over other hazardous wastes that are
23 toxic as well, or have greater tendency to
24 remain inert at elevated temperatures. In fact,
25 following more extensive chemical analysis

1 beyond that which is required for initial
2 screening, a portion of Type I shall be used as
3 start up fuel, although its incineration shall
4 be viewed as disposal.

5 Commerce Industrial Chemical's
6 proposed permit includes a provision for a
7 shakedown phase of operation for the
8 incinerator. During this period not to exceed
9 720 hours, Commerce Industrial Chemicals will be
10 allowed to gain experience with the incinerator
11 under the guidance of Paul Reilly Corporation
12 representatives. Paul Reilly is an organization
13 that sells, services, and maintains Kelly
14 incinerators under contractual agreement. Paul
15 Reilly represents the Kelly Company in Northern
16 Illinois and Wisconsin and has had great
17 experience in the field operation of waste
18 disposal equipment. During the shakedown phase,
19 only Type I and the start-up fuel derived from
20 Type I will be incinerated. Shakedown will be
21 preceded by a refractory curing phase, during
22 which hazardous waste will not be burned.
23 Reilly will also check for gas leaks, air flow,
24 draft and other mechanical defects at this
25 time. Only after U. S. EPA has reason to

1 believe that shakedown has been successfully
2 completed, has knowledge that the unit is
3 operating according to specs, and Commerce
4 Industrial Chemicals is capable of managing the
5 unit, will Commerce Industrial Chemicals be
6 allowed to burn Type II hazardous wastes. Type
7 II waste is listed for toxicity and ignitability
8 and, therefore, is not subject to the same
9 exemption criteria as is the Type I. As stated
10 previously, Type III shall not be burned by
11 Commerce Industrial Chemicals.

12 Commerce Industrial Chemical's permit
13 would allow the maximum storage of 396
14 containers of hazardous waste, irregardless of
15 type, at any time. An estimated 600,000 gallons
16 of hazardous waste will be stored per year.
17 Commerce Industrial Chemical's normal practice
18 will be to burn Type I hazardous wastes. Nearly
19 all Type II and all the Type III will be stored
20 prior to reclamation, which means that only a
21 small percentage of the Type II waste will
22 actually be burned. Thus, Commerce Industrial
23 Chemicals has taken a very conservative
24 standpoint in its proposal to U. S. EPA,
25 considering that, based on trial burn data which

1 has been submitted, all three waste types could
2 be burned. Only two drums of hazardous waste
3 will be burned per day, which is the designed
4 capacity, approximately two percent of that of
5 the S. ~~A.~~ C. A. incinerator in Chicago.

6 Incineration represents one of the
7 most viable and best common sense approaches to
8 hazardous waste disposal, as in this process
9 hazardous wastes are combusted into relatively
10 harmless carbon dioxide and water. It is much
11 more safer from an environmental standpoint to
12 literally destroy these wastes by incineration
13 as opposed to dumping it into land fills --
14 assuming it could be solidified -- or in surface
15 impoundments where the hazardous constituents
16 might leach into ground water at a later time.
17 Furthermore, Commerce Industrial Chemical's
18 unit, a Kelly company model 380 B, is fully
19 equipped with several monitoring devices which
20 will shut off the waste feed automatically,
21 should any malfunction arise. The unit must
22 continue to operate within established operating
23 conditions which are based on conditions
24 previously attained during a successful trial
25 burn.

1 Those automatic waste feed cut offs,
2 combined with a rigid inspection schedule for
3 its container storage area, its feed tank, and
4 the incinerator itself will ensure proper
5 management and control of hazardous wastes in a
6 manner which will minimize environmental risks.

7 The air emissions from a hazardous
8 waste management facility are regulated by the
9 U. S. EPA, under RCRA, the Clean Air Act, and by
10 the State of Wisconsin. Under RCRA, the air
11 emissions from the incinerator must meet certain
12 performance criteria as specified in the
13 regulations. Commerce Industrial Chemicals
14 shall show compliance with those standards,
15 through monitoring from the incinerator and
16 through periodic sampling of testing. Under the
17 Clean Air Act, the U. S. EPA has promulgated
18 regulations for the Prevention of Significant
19 Deterioration of air quality. Under those
20 regulations, a new or modified facility, which
21 has the potential to emit 250 tons per year or
22 more of any pollutant regulated under the Clean
23 Air Act, must be reviewed for a Prevention of
24 Significant Deterioration permit issued prior to
25 construction. The U. S. EPA has determined,

1 based on Commerce Industrial Chemical's RCRA
2 Part B permit application, that a Prevention of
3 Significant Deterioration permit is not
4 required.

5 The U. S. EPA has previously
6 determined that formal compliance with the
7 National Environmental Policy Act is not
8 required in connection with the issuance of
9 hazardous wastes management under RCRA. This
10 determination was published in the Federal
11 Register on June 14th, 1979, and has been
12 codified under 40 Code Federal of Regulations,
13 Part 124.29. The administrator, William
14 Ruckelshaus, affirmed this position in the
15 matter of a petition filed against I T
16 Corporation, under similar circumstances, on
17 July 11th, 1983. The Wisconsin Department of
18 Natural Resources, however, will be conducting a
19 preliminary risk assessment.

20 Commerce Industrial Chemicals does not
21 discharge process waters to surface water of the
22 United States; therefore, Commerce Industrial
23 Chemicals does not require a National Pollution
24 Discharge Elimination System permit under the
25 Clean Water Act.

1 Although not actually installed at
2 this time, chain link fence will be installed
3 around the outdoor periphery of the incinerator
4 after the unit is constructed. An appropriate
5 warning sign shall be affixed to the fence.
6 This Commerce Industrial Chemicals must do as
7 part of a compliance schedule included in the
8 draft permit. The rest of the hazardous wastes
9 facility is located indoors and is protected by
10 a Honeywell security system. In case of
11 emergency due to burglary, or fire, the police
12 and fire departments would be alerted
13 respectively, in addition to Commerce Industrial
14 Chemical's emergency coordinator. Management of
15 hazardous wastes within the plant itself will be
16 carefully controlled, such as to minimize chance
17 of spillage during transfer of containers to the
18 incinerator or during filling of the
19 incinerator. In case of accident, Commerce
20 Industrial Chemicals would follow the terms of
21 their approved contingency plan. Employees
22 would be immediately notified of any
23 severe problem and instructed how to respond,
24 through a public address system. All of
25 Commerce Industrial Chemical's employees have

1 received and will continue to receive
2 appropriate levels of training to maintain
3 hazardous waste management skills. As part of
4 this training, familiarization with the
5 contingency plan is required.

6 Although the draft permit has numerous
7 provisions, including those relating to
8 enclosure of the facility, I won't take more of
9 your time describing the draft permit
10 requirements in further detail. I encourage you
11 to examine the draft permit if you haven't done
12 so already. The permit will set the standards
13 of accountability for Commerce Industrial
14 Chemical's management of its hazardous wastes
15 over the 10 year life of the permit. Thank
16 you.

17 MS. BAGUS: Thank you, Allen. The U. S.
18 EPA fully supports RCRA'S mandate to encourage
19 public participation. To briefly summarize the
20 U. S. EPA'S participation procedures, RCRA
21 requires the U. S. EPA to public notice its
22 intent to issue or deny a permit, in a major
23 local newspaper, and to broadcast it over a
24 local radio station. On September 28th, 1984,
25 the U. S. EPA published a public notice in the

1 Milwaukee Journal. The notice announced the
2 availability for public inspection of the
3 agency's administrative record on the draft
4 application, the availability of the draft
5 permit, and this public hearing. Radio station
6 WTMJ-AM broadcast notice of this hearing on
7 September 28, 1984.

8 The administrative record is available
9 at the U. S. EPA's office in Chicago. This
10 record includes the permit application submitted
11 by Commerce, the U. S. EPA's draft permit, the
12 EPA's statement of basis, and other related
13 background documents. In addition, the
14 application, the draft permit and the statement
15 of basis have been made available at the Mill
16 Road Public Library, Northwest Branch, 6431
17 North 76th Street, Milwaukee, Wisconsin. All
18 comments received tonight, whether written or
19 verbal, will become part of the administrative
20 record.

21 After the close of the public comment
22 period on November 14, 1984, the U. S. EPA will
23 evaluate all information received prior to
24 making a final permit decision on the permit
25 application. When making its final permit

1 decision, the U. S. EPA will respond to all
2 relevant comments which have been presented for
3 the record at the public hearing or in writing
4 during the public comment period.

5 If new information or evidence is
6 submitted to the U. S. EPA, and the information
7 raises substantial new questions concerning the
8 draft permit, the U. S. EPA may prepare a new
9 draft permit or revised statement of basis. If
10 there is a need for substantial revision of the
11 original draft permit, or the agency's
12 preliminary permit conditions, the comment
13 period may be extended or reopened, and the
14 U. S. EPA will publish notice of this fact in
15 the Milwaukee Journal. If the comment period is
16 reopened or extended, the U. S. EPA will
17 consider only those comments which pertain to
18 the new information or evidence.

19 Along with the final permit decision,
20 the U. S. EPA will issue a responsiveness
21 summary, which will contain the U. S. EPA's
22 response to the relative comments which have
23 been raised. The summary will also indicate
24 which conditions, if any, of the draft permit
25 were changed. The U. S. EPA will also indicate

1 if any additional documents have been included
2 in the administrative record. Both the U. S.
3 EPA's final decision and the responsiveness
4 summary will be included in the administrative
5 record.

6 Notification of our final permit
7 decision will be provided to Commerce Industrial
8 Chemicals and to each individual who has
9 either: Presented oral comments at this
10 hearing; submitted written comments; or
11 requested notice of our decision.

12 If you filed comments on this draft
13 permit or participated in this public hearing by
14 presenting comments, you may request the
15 U. S. EPA administrator, Mr. William
16 Ruckelshaus, to review and reconsider the final
17 permit condition. Persons who did not file
18 permits or -- excuse me -- persons who did not
19 file comments orally at this hearing, or in
20 writing, during the public comment period, may
21 request review only of the changes, if any, the
22 U. S. EPA has made from the draft to the final
23 permit.

24 All requests for review must be made
25 within 30 days after the final permit decision

1 has been issued, and must be addressed to
2 Administrator Ruckelshaus in Washington. The
3 specific procedures you must follow in order to
4 request a review will be included in the U. S.
5 EPA's final permit decision. Copies of the
6 appeal procedures are also available at the
7 registration table in the rear of the hall.

8 If there is anyone present who does
9 not plan to submit oral or written comments but
10 would like to receive notice of U. S. EPA'S
11 final permit decision and response to comments,
12 there is a sign up sheet at the registration
13 table. The U. S. EPA is having a transcript
14 made of tonight's hearing. If you would like a
15 copy of the transcript, please sign the sheet at
16 the registration table. If the transcript is 50
17 pages or more, there will be a copying charge of
18 20 cents per page. If there is a copying
19 charge, the U. S. EPA will notify you of the
20 cost of the transcript. If you have not yet
21 filled out a sign in card, we would appreciate
22 your doing so before you leave tonight. The
23 sign in cards are also available at the
24 registration table in the rear.

25 I would like to stress at this point

1 that the purpose of tonight's hearing is to
2 receive your comments into the record.

3 The U. S. EPA will present its official response
4 to these comments in a responsiveness summary.

5 Mr. Debus and I will be available after this
6 hearing to provide you with any additional
7 information.

8 All persons wishing to speak tonight
9 should register their intent on the sign in
10 cards. If you decide you want to present
11 comments and have not yet indicated your intent,
12 please fill out a card and hand it to the
13 hearing assistant in the rear. I will call the
14 speakers in the order in which the requests to
15 speak were received. As your name is called,
16 please step up to the microphone. Before you
17 begin to speak, please give your name and spell
18 your last name for the court reporter. Your
19 comments, in written form, should be given to
20 the court reporter before you begin your
21 presentation. You may submit comments in
22 writing tonight or any time before the close of
23 the public comment period on November 14, 1984.

24 If you have any questions on the U. S.
25 EPA's procedures or on the draft permit, Mr.

1 Debus and I will be available immediately
2 following the hearing.

3 We will now begin to receive your
4 comments. Please remember to repeat your name
5 and spell it for the reporter. The first
6 registered speaker is Cari Backes.

7 MS. BACKES: My name is Cari Backes,
8 B-a-c-k-e-s, I live at 5708 North 56th Street in
9 Milwaukee. The September 28th, 1984, EPA public
10 notice states that the EPA, Region 5, is hereby
11 giving notice of its intent to issue a permit to
12 allow Commerce Industrial Chemicals to continue
13 to operate a hazardous waste storage facility
14 currently operating under an interim status and
15 to construct the hazardous waste incinerator at
16 5611 West Woolworth Avenue in Milwaukee.

17 The October 11th, 1984, D. N. R.
18 Public notice states that the Department of
19 Natural Resources has determined that the
20 feasibility report submitted by Commerce
21 Industrial Chemicals in the environmental
22 assessment and the environmental impact
23 statement for the proposed hazardous waste
24 storage and treatment facilities are complete,
25 and that the department has made a preliminary

1 determination that environmental assessment and
2 environmental impact statement are not needed
3 under Section 1.11, Wisconsin Statutes.

4 I've reviewed the material available
5 at the Mill Road Library and found nothing to
6 indicate that the EPA has reviewed this project
7 proposal to determine its impact on the
8 environment and the community, its impact
9 relative to the hauling of hazardous wastes on
10 heavily traveled streets and through densely
11 populated areas, its potential to become a
12 growth industry in Milwaukee, the potential
13 adverse impacts on the city's resources and its
14 tax base and in view of the abundance of vacant
15 land on the northwest side, whether there is a
16 need to limit the number of such facilities in
17 any one community in order to protect public
18 health and safety.

19 Further, there was no information
20 about the D. N. R. environmental assessment and
21 environmental impact statement process to
22 indicate what criteria was used to determine
23 that they are not needed. Not even a brief
24 summary to substantiate their opinion. Since
25 all of the available information was devoted

1 exclusively to the regulatory process and the
2 permit application process, contained in the
3 feasibility report submitted by CIC, which
4 permit formed the basis of EPA's intent to issue
5 a permit from a report -- am I right on that,
6 the feasibility report was --

7 MR. DEBUS: No. I think you're mixing
8 the two programs together there. The
9 feasibility report from Commerce Industrial
10 Chemicals is something that was prepared to
11 satisfy the Wisconsin phase of their permitting
12 procedure.

13 MS. BACKES: Neither one of the
14 regulatory agents has made a decision on that
15 feasibility report.

16 MR. DEBUS: Okay. Well, the feasibility
17 report would be something that the state would
18 have, you know -- the U. S. EPA only is required
19 to review the part, what is called a part B
20 permit application.

21 MS. BACKES: So, anyway, somebody made a
22 decision because of that feasibility report, and
23 I'm opposed to the granting of this 10 year
24 permit because there is no evidence that EPA has
25 fulfilled its responsibility in behalf of the

1 public interests to account for the cumulative
2 and social and environmental impacts of this
3 project on the host community.

4 Further, I believe that the city and
5 the county have not had enough time to study the
6 pros and cons of this project to ensure that the
7 interests of city and county residents are
8 adequately represented in regards to the long
9 term impact on local land use, tax base in our
10 urban environment.

11 For example, this incineration of
12 hazardous wastes proposal is a first for
13 Milwaukee, which sets a precedent. Present
14 zoning laws do not allow incineration of
15 hazardous wastes at this location, so the intent
16 to issue a permit is a potential violation of
17 local ordinance. Thus, we have two contributing
18 factors; namely, setting a precedent and intent
19 to violate a local ordinance, which under the
20 NEPA require an environmental impact statement
21 in order to comply with the law. And given the
22 long term, hazardous nature of this operation
23 and its growth potential in Milwaukee, it would
24 be negligent not to conduct an environmental
25 impact statement.

1 The neighborhood I live in is about
2 two blocks from the CIC facility, and I am
3 appalled that the EPA has not seen fit to reach
4 out into the community to encourage and provide
5 opportunities for public input before its
6 decision making process was virtually completed,
7 while for more than a year, and you established
8 now, too, it has been working with and
9 counselling the people who manage CIC.

10 The EPA has told us nothing about the
11 hazards associated with incinerator malfunction
12 or explosion or spill, has not told us who will
13 pay for providing our police and fire
14 departments with training and proper equipment
15 to handle an accident and the clean up, or what
16 we will be exposed to should an accident occur
17 due to explosion, spill or incinerator
18 malfunction. It would be unfair to expect
19 Milwaukee homeowners to pay for this expenses
20 via the regressive property tax.

21 If this permit is issued and given the
22 potential for growth, Milwaukee could become a
23 major depot for storage and incineration of
24 hazardous wastes, serving the entire state and
25 even beyond. In effect, the permit process, as

1 it is set up, serves to bypass local authority
2 to determine what is or is not in the best
3 interests of the people they serve and
4 represent. And this, in turn, denies local
5 citizens the right to equal representation and
6 protection under the law.

7 And I have my own little bit of fact
8 that I have collected.

9 Number one, the CIC incinerator has
10 been on the site for more than a year, is
11 exposed to the elements, has no security fence,
12 juts out into a parking lot used to park CIC
13 semi and tank trailers and employee cars where
14 it can be easily damaged, causing it to
15 malfunction. The incinerator stacks are rusty.

16 Number two, parking lot is adjacent to
17 the east wall of the building where the
18 hazardous wastes will be stored and where the
19 feeder tank will be installed. The employee
20 entrance/exit door is on the same wall right
21 next to the incinerator.

22 Number three, on two occasions I
23 noticed a powdery white substance all over the
24 CIC loading dock and through the open door I saw
25 the same substance all over the floor, and an

1 over-flowing trash container next to the loading
2 dock was also covered with the same substance.
3 If this indicates a spill and the substance was
4 used to clean it up, it should have been handled
5 and disposed of as hazardous wastes, which it
6 apparently was not. If it wasn't a spill, why
7 would this substance be all over the loading
8 dock, the inside floor and in the trash
9 container?

10 MS. BAGUS: Thank you, Ms. Backes. Our
11 next registered speaker is Mr. James Eaton.

12 MR. EATON: My name is James Eaton,
13 E-a-t-o-n. I'm here representing Congressman
14 Gerald D. Kleczka, K-l-e-c-z-k-a. Congressman
15 Kleczka has asked me to read the following
16 letter into the record of this hearing. The
17 letter is addressed to Mr. Karl J. Klepitsch,
18 Junior, Chief, Waste Management Branch, United
19 States Environmental Protection Agency, Region
20 5, 230 South Dearborn Street, Chicago,
21 Illinois.

22 Dear Mr. Klepitsch, thank you for the
23 opportunity to review and comment on the draft
24 resource conservation and recovery act permit
25 for Commerce Industrial Chemicals to operate a

1 hazardous waste storage and incineration
2 facility at 5611 West Woolworth Avenue, within
3 the City of Milwaukee.

4 Although the facility site lies
5 outside the Fourth Congressional District, the
6 storage and disposal of hazardous and toxic
7 wastes is a matter properly of concern to the
8 entire Milwaukee community.

9 After reviewing the permit
10 application, the documents submitted in support
11 of the application by Commerce Industrial
12 Chemicals, and the draft permit, I have
13 concluded that serious concerns remain
14 unanswered.

15 A particular concern is the dangerous
16 precedent of locating a hazardous waste disposal
17 and storage site within the City of Milwaukee.
18 Currently, no such facility operates within the
19 city, and common sense dictates that such
20 facilities should not be in residential areas.
21 Despite careful planning and projection,
22 experience shows that it is difficult to predict
23 with certainty the potential for dangerous
24 episodes resulting from the storage and disposal
25 of hazardous wastes. In view of this, it makes

1 good sense to locate such a facility away from
2 residential centers.

3 Additionally, I note that no
4 environmental impact statement has been filed.
5 While this is not required by the applicable
6 regulations, the nearness of the facility to
7 residential areas makes it imperative that a
8 full examination of possible dangers is
9 conducted. Spills could affect our ground
10 water. Wind borne contaminants could be
11 distributed over large areas of the city.

12 As part of an environmental impact
13 statement, a study should be conducted to
14 indicate what effects on the local and regional
15 environment might reasonably be expected from
16 this facility. Such a study should examine not
17 only effects from expected operation of the
18 facility but also from possible worst case
19 scenarios, such as an uncontained spill of Type
20 II wastes and fire or explosion leading to
21 release of contaminants.

22 An environmental impact statement
23 would also provide an opportunity for
24 independent scientists and engineers to review
25 possible effects and offer a judgment on the

1 adequacy of plans for storage disposal and
2 containment of hazardous wastes.

3 Because of those concerns, I believe
4 the permit should not be granted at this time.
5 The permit should be delayed until full
6 assessment can be made of the potential risks of
7 this operation and the adequacy of measures
8 designed to deal with them.

9 Thank you for your consideration in
10 this matter. Sincerely, Gerald D. Kleczka,
11 Member of Congress.

12 MS. BAGUS: Thank you, Mr. Eaton. Our
13 next registered speaker is Mr. Jeff Buske,
14 B-u-s-k-e.

15 MR. BUSKE: Hello, my name is Jeff
16 Buske, B-u-s-k-e, I live at 5851 North 69th,
17 Suite two. I also read about this in the local
18 paper and it is setting a precedent in the
19 Milwaukee area. I don't live real close to the
20 facility but close enough that it warranted my
21 coming. After reviewing this document, I found
22 that the hand-over procedure concerning the
23 material handling in the case of a spillage, and
24 there are so many, that the general condition of
25 the Milwaukee ground water at present is very

1 poor, and putting a facility like this with no
2 hazardous waste spillage procedures or having
3 the facilities designed to handle a spill, in
4 the event of a spill, concerns me greatly.
5 Also, they make lots of references to the type
6 of incinerator and some of the parameters
7 controlling the incinerator temperature, air
8 volume. And what agency is going to
9 periodically inspect and make sure that the
10 combustion temperature is maintained and they
11 don't try to over-stuff the incinerator?

12 MR. DEBUS: We would.

13 MR. BUSKE: What kind --

14 MR. DEBUS: Ourselves and the state
15 would be conducting inspections periodically.

16 MR. BUSKE: On what kind of frequency is
17 that done?

18 MR. DEBUS: Several times a year. I
19 can't give you an exact figure right now.

20 MR. BUSKE: And, you know, in the course
21 of a year they're supposed to be burning
22 approximately 500,000 pounds of material and if
23 they are, let's say, for a quarter of a year,
24 out of regulation with carbon monoxide emissions
25 or maybe even if they get the final permit for

1 the Type II material, which is the chlorinated,
2 fluorinated hydrocarbons, then you have the
3 emission of chlorine and fluorine gas, which is
4 extremely poisonous. And I wasn't even aware of
5 the fact that this building was even in
6 operation, that this storage facility was in
7 operation. And now they're applying for a
8 permit to incinerate it. An environmental
9 impact statement would be something that would
10 merit being recorded before any permit was
11 issued at this time. And also, the monitoring
12 devices they would refer to as some alarms on
13 the fire or the combustion chamber, what kind of
14 monitoring devices are there and how often are
15 those inspected for accuracy, and who will do
16 that?

17 MR. DEBUS: I can tell you right now
18 what some of the monitoring devices, shut offs,
19 the automatic cut offs would be. They include
20 -- I'm not sure how many of you are engineers,
21 but there's a device called the feed pump inlet
22 pressure, that would be checked; the outlet
23 pressure would be checked, both at monthly
24 frequencies. There's a device called an air
25 pressure switch which would be tested weekly.

1 Main chamber temperature and the sect, which is
2 the first chamber in which the hazardous wastes
3 would go into, would be checked on a daily
4 basis. Secondary chamber temperature would be
5 checked on a daily basis. That is where the
6 primary destruction of the waste would occur.
7 The waste feed rate would be checked on a weekly
8 basis. Combustion gas velocity which is sort
9 of, it's an indicator of residence time until
10 incinerator -- the longer the residence time the
11 greater possibility of fully destroying the
12 waste -- would be checked on a weekly basis.
13 Carbon monoxide levels in the stack would be
14 checked on a daily basis. All of those things
15 I've just mentioned, all of those items would,
16 if they were not operating within required
17 limits, limits which have been established in
18 the previous trial burn and which are also based
19 on Subpart O. in 40 Code of Federal Regulations
20 264. There was not -- if they were not
21 operating properly, automatic shut down of the
22 waste feed stream would occur.

23 MR. BUSKE: Thank you.

24 MR. DEBUS: The system is basically
25 fool-proof. If something goes wrong with the

1 unit, it's going to shut down.

2 VOICE IN AUDIENCE: Says who?

3 MR. BUSKE: I guess after reviewing a
4 list here, they don't, apparently this facility
5 is not designed to handle Type II combustion
6 process at this time.

7 MR. DEBUS: It could handle Type II. It
8 could also handle the halogenated Type III.
9 Commerce has elected not to burn the Type III
10 and has chosen not to burn a large percentage of
11 the Type II that it stored.

12 MR. BUSKE: Apparently, if you're not
13 planning on doing so, and the permit doesn't
14 cover that at this time, is there some sort of a
15 monitoring device, such as an exhaust
16 conductivity, which would look for the presence
17 of chlorine and fluorine which, you know, if
18 there's by accident some drums got mixed and
19 they weren't supposed to be burning fluorinated
20 materials --

21 MR. DEBUS: There's no such monitoring
22 device on the stack. However, that type of
23 distribution has been addressed through a couple
24 of other things. First of all, there, as I
25 mentioned previously, the waste will be stored

1 in such a manner that Type I, Type II and Type
2 III will be separated from one another. All the
3 waste which comes in will be subjected to a
4 waste analysis. It's a pretty rigorous waste
5 analysis which will allow Commerce to determine,
6 say, whether or not someone has put something in
7 a, in a drum and not labelled it correctly.
8 Commerce would be able to identify that, if it
9 happened.

10 MR. BUSKE: Is that before --

11 MR. DEBUS: So you're not relying
12 totally on hearsay or what comes through on a
13 manifest form.

14 MR. BUSKE: Is that asset being done by
15 Commerce or is it being done by an outside
16 contractor?

17 MR. DEBUS: It's being done by
18 Commerce.

19 MR. BUSKE: Okay. Do you know offhand
20 how many shifts a day, how many hours a day the
21 incinerator was designed to operate?

22 MR. DEBUS: From what I understand, I
23 think it's just going to be, I think it's from
24 eight to 16 hours a day. I don't have the exact
25 figure. Eight hours, for just one shift.

1 MR. BUSKE: Well, I did a real quick
2 calculation. Assuming that it's 50 or 500,000
3 pounds of material would be combusted a year,
4 which is based on the Type I, and I think the
5 Type II, the total is about 500,000 pounds of
6 material, and just guessing, let's say they're
7 six pounds a gallon, I believe I come up with
8 about 6,000 hours of incinerator time, assuming
9 15 hours per gallon. And that, to me, is based
10 almost three shifts a day, 24 hours a day. So
11 something might have a bottle neck at the
12 incinerator.

13 MR. DEBUS: Where did you get that
14 information?

15 MR. BUSKE: I'm just taking, just kind
16 of guessing at the weights of the material and
17 the amount involved. It seems --

18 MR. DEBUS: I think that might be over-
19 estimating but I'd have to look at your
20 figures.

21 MR. BUSKE: Yeah.

22 MR. DEBUS: I don't have something right
23 here to compare that with.

24 MR. BUSKE: It just appears that they
25 may have more material there that they're trying

1 to dispose of in a year, in the time that
2 incinerator time would allow.

3 MS. BAGUS: If you'd like to present
4 that as a question in your formal comments, we
5 can answer that in the responsiveness summary,
6 then, formally.

7 MR. BUSKE: Okay. I guess I'd like to
8 enter that as a question, then, as to how many
9 hours the incinerator will be on the line. No
10 further questions, thank you.

11 MS. BAGUS: Thank you. There are no
12 further pre-registered speakers. Would anyone
13 else like to present comments at this time?
14 Please give your name and spell it for the court
15 reporter.

16 MR. BARTAK: My name is Frank Bartak,
17 and I'm the Deputy Commissioner for the Building
18 Inspection Department, Department of Building
19 Inspection, of the City of Milwaukee. The
20 Building Inspection Department has a task force
21 to study the impact of any hazardous wastes
22 facility, or area in the City of Milwaukee. The
23 task force was composed of a number of city
24 departments which included a Building Inspection
25 Department, Department of Public Works, a

1 Department of City Development, the Health
2 Department, the Department of Emergency
3 Government, the Fire Department, and the Police
4 Department. A meeting of that task force was
5 held this past week, and after a very lengthy
6 discussion, it was the consensus of the task
7 force that we would go on record as opposing the
8 proposed hazardous waste facility at 5611 West
9 Woolworth Avenue. It was felt that alternative
10 sites away from any residential area or any
11 other noncompatible commercial uses should be
12 considered so as to protect the public health,
13 which we felt was the most important
14 consideration.

15 However, in addition to this,
16 regardless of where the facility would be
17 located, we felt the following questions should
18 have answers and should be provided to us and,
19 we feel, incorporated into an environmental
20 impact statement before any type of permit would
21 be granted. We've got a number of questions
22 here. I don't know if you would want to answer
23 them individually, or to pose the questions to
24 you and give you copies of those questions which
25 then could be incorporated into your report.

1 MS. BAGUS: I think to ensure accuracy,
2 if you'd present the comments for the record and
3 then we can answer them formally through the
4 responsiveness summary.

5 MR. BARTAK: All right, but I'll just
6 quickly read off the questions here so the
7 people hear it or have some idea what they are.

8 MS. BAGUS: Okay, all right.

9 MR. BARTAK: Our first question is:
10 What type and how much air pollution is
11 anticipated from this facility? How will the
12 hazardous ash, if any, be disposed of? Are the
13 chosen transportation routes for the company's
14 chemical trucks the optimum routes from the
15 standpoint of public safety? What water
16 effluents and how much, if any, are
17 anticipated? Where will the process water, if
18 any, go and what kind of process water
19 monitoring would take place? In the case of an
20 explosion: How large is the potential fire
21 ball? Two, how far will the potential blast
22 reach? Three, how will the company assure that
23 the records in the building, as well as the
24 protective equipment, be readily available?
25 Shouldn't the facility and the containment be

1 required to construct a firewall and a chemical
2 explosion suppression system vented vertically
3 to protect nearby areas? And is the interior
4 fire fighting system adequate to suppress
5 chemical fires? What toxic fumes are
6 anticipated from the incineration of these
7 hazardous wastes and where will those fumes be
8 likely to go? Another question is, why is there
9 no community evacuation plan in the company's
10 contingency plan? It seems they have a plan but
11 appears it's only for the employees of the
12 company. And why was the City of Milwaukee's
13 Emergency Government not listed as one of the
14 agencies to be notified in case of a
15 catastrophe? In case of a spill, is there
16 sufficient ventilation provided to expel any
17 hazardous fumes? And what provisions are made
18 to prevent hazardous substances from getting
19 into the sewer system or over surface storm
20 water drainage channels? Is the company's
21 emergency equipment sufficient to protect
22 workers? How compatible is the proposed
23 hazardous waste storage and incinerator for the
24 area of zoning and surrounding land uses? What
25 is the degree of community acceptance of this

1 proposed hazardous waste storage and
2 incinerator? What would be the impact of this
3 facility on the values of surrounding
4 properties? To help prevent accidents,
5 shouldn't a vapor control system be provided to
6 prevent vapor accumulation of hazardous gases
7 inside the building? And what provisions will
8 there be to prevent those hazardous gases from
9 escaping into the atmosphere? Should
10 non-compatible chemicals be physically separated
11 by independent containment systems and fire
12 walls? And lastly, for closure, wouldn't the
13 company be required to deposit an amount in
14 escrow sufficient to assure the proper closure
15 of the site in case the company goes bankrupt or
16 out of business? Is the \$10,000.00 stated in
17 the permit adequate? Those are some of the
18 questions that we came up at our task force
19 meeting this week. However, the City of
20 Milwaukee reserves the right to submit
21 additional questions and comments to you before
22 the November 14th deadline.

23 MS. BAGUS: Now, in your comments, you
24 mentioned an emergency government unit?

25 MR. BARTAK: Yes.

1 MS. BAGUS: Would you like to give us
2 the contact, the address or telephone number?

3 MR. BARTAK: Milwaukee -- a member of
4 the Milwaukee Emergency Government is in the
5 audience tonight and will give you his name and
6 where any correspondence will be sent to.

7 MS. BAGUS: Thank you, Mr. Bartak.

8 MR. BARTAK: Okay.

9 MS. BAGUS: Would anybody else like to
10 present comments?

11 MR. HANRAHAN: My name is Edward
12 Hanrahan, I'm with Connors and Moody's office.
13 My last name is spelled H-a-n-r-a-h-a-n. Without
14 being too repetitious, Congressman Moody is
15 extremely concerned about and opposed issuing
16 any permit to incinerate hazardous waste, and
17 especially in this residential neighborhood.
18 Without repeating Mr. Bartak and Ms. Backes's
19 concerns, he feels that there are a lot of
20 unanswered questions in this instance,
21 especially as it relates to contingency plan for
22 the residents and the ability of the local units
23 of Fire Department and Emergency Government to
24 handle any type of accident. It doesn't feel
25 like this has been addressed and would continue

1 to oppose any kind of a permit until those
2 questions are answered. And we'll submit a more
3 lengthy written statement by the November 14th
4 deadline, also. Thank you.

5 MS. BAGUS: Thank you. Is there anyone
6 else in the audience who would like to present
7 comments?

8 MR. TIETZ: Good evening. I'm Alderman
9 Howard Tietz, I reside at 5314 West Portage
10 Avenue, City of Milwaukee. I'm the elected
11 local alderman for the neighborhood where
12 Commerce Industrial Chemical resides and does
13 their primary business today. I've listened to
14 the comments this evening and I'm rather
15 appalled that the local officials of the City of
16 Milwaukee have never been contacted, number one,
17 by EPA, the Department of Natural Resources, to
18 have any of our input in helping or working
19 with, in close cooperation, with the two
20 departments. I want to go on record as stating
21 that the citizens and neighbors of Commerce
22 Industrial Chemical are in no way looking for an
23 ongoing war with the company. Their primary
24 business is the selling of solvents to
25 industries who are located within the City and

1 County of Milwaukee. It has never been our
2 intention to look for an ongoing dialogue or
3 battle, if I can use that word, with the
4 company. Just this evening, by local television
5 coverage, Channel 6 in Milwaukee, I received 13
6 phone calls at my home prior to coming to this
7 meeting. My constituents asked me if Commerce
8 Industrial Chemical is storing its storage depot
9 on West Mill Road. Where are the pollutants and
10 contaminants that are being released into the
11 environment and into the ground? How are those
12 being monitored? Is the United States
13 Department that's here tonight telling us how
14 sure and safe the conditions are going to be met
15 at the present plant and we're not even
16 monitoring what is being released just east of
17 their plant? We're not talking in considering
18 any of the property values, we're not looking at
19 any of the emergency that might become
20 synonymous with that type of business. The only
21 thing in this feasibility study is for the
22 employees of that particular company. There's
23 nothing for the people that reside in the
24 immediate neighborhood, nor of any of the other
25 businesses that abutt that particular business.

1 It was the consensus of the task force that met
2 just yesterday in the City of Milwaukee, taking
3 into account probably nine or 10, 11
4 departments. We thought and chose at that time
5 to be a fair government to deal with. We chose
6 not to ask for an environmental study. We
7 thought why put the company through that type of
8 an expense and that exercise when we feel that,
9 number one, some of the zoning requirements are
10 not being met, that we feel that the city will
11 never in any way, shape or form grant an
12 occupancy permit to that company, and we hope
13 even with this meeting tonight that Commerce
14 Industrial Chemicals will choose to take their
15 business of storing this hazardous waste
16 elsewhere. And my question to your bureau, is
17 hazardous and toxic synonymous with each other?
18 How is it defined and how is it broken down? I
19 think what we're asking for this evening is for
20 Commerce Industrial Chemical to continue on with
21 their primary business, be a good neighbor in
22 the community and do so by leaving the hazardous
23 wastes to some other storage facility. I'm not
24 asking not just to be in our particular
25 neighborhood, but to take it from without our

1 community, take it some place else. The intent
2 of their primary business was to sell the
3 chemicals that are brought in from large
4 manufacturing facilities and to disburse those
5 chemicals within the community. We feel, and
6 when I say we feel, we, the neighbors, feel that
7 by storing or -- excuse me -- changing their
8 primary business to the storage of hazardous
9 wastes, the business will not become a primary
10 business; the secondary business will become a
11 primary business. Is there any prima fascia
12 evidence to show that now that we have the
13 ability to buy back from you -- excuse me -- not
14 maybe buy back, charge you to take from your
15 manufacturing plant the waste products of the
16 chemicals we sold you and stored for you? Will
17 that become a bigger business than the business
18 of selling the original chemical to the end
19 user? I'm wondering if the 396 55 gallon drums
20 that is alluded to in the feasibility report
21 that I was given, if we're going to burn two
22 drums a day at 30 drums a month is 60. They
23 claim that they're not going to build it in any
24 other months other than the winter months
25 because they want to claim the heat. So if we

1 use the months of November one through March 31,
2 we're talking five months, we're talking one
3 cycle of the 296 or four more drums than the
4 total capability of storage. I, being a small
5 business man, cannot understand in small
6 economics how a company, by burning two 55
7 gallon drums of some solvent or material having
8 a total capacity of storing 297 drums or, excuse
9 me, 296, if I can turn my total inventory once
10 in a year by fire and burning it, where they're
11 ever going to be of a benefit to their original
12 customer. There's nothing in the feasibility
13 report that states to me, to the City of
14 Milwaukee, to the D. N. R., or to the
15 Environmental Agency, what happens after we
16 receive or have a maximum storage of 296. Are
17 we then going to remove five, 10, 15 of those
18 drums that are possibly unburnable? Those drums
19 that have to be spiked with more solvent than
20 the other type of product that we're storing?
21 So those products then become a cost deficient
22 product standing in their warehouse. How are
23 they going to then remove them? First of all,
24 in your report, it shows how we're going to
25 bring them to the facility. What happens after

1 the facility is filled, the 296 numbers are
2 reached, how are we then going to remove them?
3 What streets and what avenues are going to be
4 taken? I wish the Department of Natural
5 Resources from the State of Wisconsin was here
6 tonight. Just on the southernmost boundary of
7 this Commerce Industrial Chemical is the first
8 environmental awareness center in a metropolitan
9 city in the State of Wisconsin -- I don't want
10 to go into other states -- and the D. N. R. is
11 helping it by licensing it on one side of a
12 railroad track, with hazardous and toxic waste
13 and on the other side, and they're bringing the
14 citizens of the City of Milwaukee, the State of
15 Wisconsin, and showing them what an
16 environmental awareness center can be. I have
17 never seen such hypocrisy. I can't believe, I
18 can't believe that the Department of Natural
19 Resources is not here tonight. And that if this
20 is what the State of Wisconsin can show me as an
21 elected official, well, God bless them, and I
22 think a recall should be started immediately.
23 And I stand on my ground as a simple elected
24 official that if something like this with can
25 happen in the City of Milwaukee, right next door

1 to an environmental awareness center, I'm going
2 to tell you, Ladies and Gentlemen, you're
3 wackos. You're a bunch of wackos. The citizens
4 don't want it, the neighbors don't want it, you
5 have no contingency plans. You ask us, the City
6 of Milwaukee, to pay for a fire department that
7 does not know what's inside the building. You
8 ask us to take our men, drive them to the scene
9 of the fire, and tell them, gentlemen, go
10 inside. The employees of Commerce Industrial
11 Chemical, under their feasibility report, have
12 complied to everything in the report. They've
13 grabbed, they've grabbed a manifest from the
14 safe. He's out on the street and he's running.
15 Now, I'm going to say to my employees of the
16 City of Milwaukee, gentlemen, lay your fire
17 hoses and go in and challenge the fire? Do you
18 know what I'd tell my employees? Gentlemen,
19 fall back and let it blow. But I'm wondering
20 what the environmental agency's feelings for the
21 City of Milwaukee, the taxpayers that have to
22 pay for that, to pay for the protection, not
23 even knowing what is being stored? They have to
24 comply to a feasibility study. Today, we take
25 in X number of drums of some solvent, somebody

1 draws a vial, the viscosity is this, the
2 contents is that, this place is going to
3 manifest itself labeled on a 55 gallon drum and
4 it's stored on a shelf no higher than three
5 drums high. Well, that's marvelous. One day we
6 have one employee, the next day we have another
7 employee, the next day we have four employees
8 and the next day two employees quit. We have a
9 change-over and a turn-over of employees. And
10 all of a sudden nobody knows what's going on and
11 says, who the hell's reading those reports?
12 What are we going to do, send our fire
13 department there daily, weekly, to read the
14 manifest to see what's being stored so those
15 people can train their personnel to fight a
16 fire? We have, in this feasibility report, as
17 Mr. Bartak from the building inspection alluded
18 to, we have absolutely no fire walls. You've
19 got 296 55 gallon drums standing there just
20 ready to blow. Thank you.

21 MS. BAGUS: Thank you, Alderman. Would
22 anybody else like to present any comments?

23 MR. KENNY: Larry Kenny, I'm a member of
24 the Milwaukee County Board, last name is spelled
25 K-e-n-n-y. I agree wholeheartedly with the

1 previous speakers and their concerns regarding
2 the building and the safety factors. I would
3 like to ask the EPA to address another area, and
4 that's the routes that are going to be used to
5 transport the materials to the building. Four
6 of the major routes that would be used would be
7 Silver Spring Drive, North 76th Street, Mill
8 Road and Good Hope, which are major state and
9 county trunks. The vehicular traffic on the
10 northwest side has been increasing to the point
11 that it is almost dangerous. To put hazardous
12 waste on the road would increase the danger to
13 the residents in the area. While the 56th and
14 Woolworth building may not be in a heavily
15 populated area, since we do have havens to the
16 south, the route to the building would be
17 through a neighborhood that is heavily
18 populated, and any spill or any accident then
19 could create a major disaster in the City of
20 Milwaukee, and Milwaukee County. Thank you.

21 MS. BAGUS: Thank you. Is there anyone
22 else who would like to present comments? Since
23 no one else would like to present comments,
24 thank you very much for your participation in
25 tonight's hearing, and the hearing is now

1 adjourned.

2 (WHEREUPON, the proceedings were
3 concluded at 8:15 O'clock in the evening.)

4 * * * * *

5 * * * * *

6 * * * * *

7 C E R T I F I C A T E

8 STATE OF WISCONSIN)

9) SS.

10 MILWAUKEE COUNTY)

11 I, DAVID W. WAHLBERG, a Notary Public in
12 and for the State of Wisconsin, do hereby
13 certify that the above proceedings were taken
14 before me on the 1st day of November, A.D.,
15 1984, at Webster Junior High School, 6850 North
16 53rd Street, Milwaukee, Wisconsin, commencing at
17 7:00 O'clock in the evening.

18 That it was taken at the request of
19 the U. S. EPA upon verbal statements and
20 interrogatories.

21 That it was taken in machine shorthand
22 by myself, and that the foregoing pages,
23 consisting of pages (3) through (53), inclusive,
24 constitutes a full, true and correct
25 transcription of my original machine shorthand

1 notes taken at said hearing.

2 That it was taken to be used in the
3 case of the Issuance of a Resource Conservation
4 & Recovery Act Permit to Commerce Industrial
5 Chemicals, an action now pending before the
6 U. S. EPA in and for the United States of
7 America.

8 That the appearances were as follows:

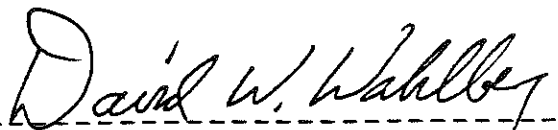
9 MS. LILLIAN BAGUS, HEARING OFFICER.

10 MR. ALLEN DEBUS, PRIMARY AUTHOR OF U. S.
11 EPA'S DRAFT PERMIT.

12 MS. BEVERLY THOMPSON, HEARING ASSISTANT.

13 I also certify that I have no interest
14 in the outcome of said proceedings, and have
15 reported the same in an unbiased manner.

16
17 Dated at Grafton, Wisconsin
18 this 9th day of November, A. D., 1984.

19
20
21 

22 Notary Public
23 Court Reporter
24 State of Wisconsin

25 My commission expires September 24, 1988.

Oversight Inspection Form

Oversight Inspection Form

Instructions:

The form is divided into two parts. Part 1 is used during the actual inspection to record observations made in the field. Part 2 of the form is used to evaluate the State inspection report relative to field observations. Both parts of the oversight inspection report have to be completed by the EPA oversight inspector. In the remarks column, N/A may be appropriate in some instances.

PART 1

(Permit obtained in 1985)

I. Facility Name: Commerce Industrial Chemical

EPA ID #: WID 980 795 181

Facility

Activities: Small Quantity Generator

X Generator

X Transporter

X Treatment/Storage/Disposal Facility

II. Inspection :

Type: X CEI

 O & M

 CME

 Lab Audit

 Records Review

 Compliance Monitoring

 CDI

 Other (specify)

Items To Be

Reviewed: X Full Scope

 Limited Scope

Inspection

Format: X Joint

 Independent

III. EPA Oversight

Inspector: Shirlee M. Brauer

Organization: U.S. EPA

Telephone: (312) 886-4591

IV. Inspection

Date(s): June 2, 1988

Oversight Inspection Form

	Yes	No	Remarks
<u>V. Pre-Inspection Review</u>			
1. Did the State inspector arrange the logistics of the inspection by assuring: a. facility actively operating? b. EPA properly notified?	<u>X</u>		2 inspectors were present; 1 from district, 1 from Madison.
2. Did the State transmit requested documents according to the established schedule?	<u>X</u>		
3. Was the inspector prepared to conduct the inspection? The inspector should have pertinent information (permit application, previous inspection reports, waste types handled) and equipment (safety and sampling)?	<u>X</u>		
4. Did the inspector present the appropriate identification and advise the owner/operator of the purpose of the inspection and briefly describe the agenda?	<u>X</u>		
<u>VI. Facility Information (Observations)</u>			
1. Did the inspector demonstrate or obtain knowledge of the facility processes and an understanding of its RCRA history?	<u>X</u>		
2. Did the inspector conduct a thorough walk-through of the industrial processes and associated hazardous waste generation areas in the facility? Were there any areas not inspected? If so, why?	<u>X</u>		Inspector filled out container inspection form prior to conducting visual inspection.
		<u>X</u>	

Oversight Inspection Form

	Yes	No	Remarks
3. Did the inspector fail to note any violations or improper waste handling activities?		X	
4. Did the inspector fail to identify any hazardous waste handling areas not previously identified in previous reports or records?		X	
5. Upon identifying a potential violation, did the inspector initiate case development procedures (i.e., gather detailed evidence to support the findings of violations)?	X		
6. Did the inspector check the requirements for preparedness and prevention, including adequate aisle space, emergency equipment availability, and access to communications during hazardous waste handling operations?	X		
7. If applicable, was sampling performed by State personnel in accordance with standard operating procedures specified by the State and/or EPA?			None done, NA
8. Was proper safety and sampling equipment used to perform the sampling?			NA
9. Was the inspector helpful to the owner/operator by providing explanation of the regulations?	X		

Oversight Inspection Form

Yes No Remarks

10. Was the inspector able to answer questions accurately or commit to provide answers at a later date?

X

INSPECTOR NEEDS MORE LAND BAN
TRAINING

11. If the facility was permitted, did the inspector determine compliance with permit-specific conditions?

X

Plan reviewer from Madison
conducted this portion of
the inspection

12. Did the inspector perform an exit interview with the owner/operator summarizing the key findings of the inspection?

X

NOTE: The inspector should not make a finding of violation during the inspection, but should only discuss the findings.

VII. Knowledge of the Regulations

1. Was the inspector knowledgeable about hazardous waste regulations applicable to the facility?

X

2. Was the inspector aware of recent amendments to the regulations that may affect the conduct of the inspection?

X

* Neither inspector has been to the Region V "RCRA Inspector Training" The District inspector started approx. 6 mos. ago.

Oversight Inspection Form

V. Document Inspection (Review) Yes No Remarks or Not Applicable
 (Please note if review was performed prior to or during inspection)

1. Did the inspector thoroughly review the following documents?

A. For Generators:

-Inspection records for hazardous waste storage areas	<u>X</u>		
-Personnel training records	<u>X</u>		
-Contingency plan	<u>X</u>		
-Emergency equipment testing and maintenance records	<u>X</u>		
-Waste analysis records	<u>X</u>		
-Manifests and exception reports	<u>X</u>		
-State annual and/or EPA biennial reports	<u>X</u>		
-Waste minimization plan	<u>X</u>		

B. In addition, for TSDF's:

-Part A permit application or final issued permit	<u>X</u>		
-Part B application prior to permit issuance			NA
-Operating record	<u>X</u>		
-Waste analysis plan	<u>X</u>		
-Inspection schedule	<u>X</u>		
-Closure and Post Closure Plan	<u>X</u>		
-Financial instruments	<u>X</u>		
-Ground Water Monitoring/Reports		X	NA
-Other information (treatment plant operations, internal correspondence)	<u>X</u>		MANIFESTS

C. Inspector also conducted Transporter inspection.

Oversight Inspection Form

PART 2

INSPECTION REPORT REVIEW

I. Review of Inspection Report

Yes No Remarks

1. Did the inspector submit the completed inspection report within the established SEA or grant deadlines?

Inspection - 6-2-88
Letter - 6-30-88

x

28 days

2. Did the inspection report contain factual observations rather than opinion?

x

Comments: Contained lots of good comments and descriptions.

3. Was the report accurate and did it sufficiently document all the violations? Were the regulations interpreted correctly?

x

4. Did the report contain a discussion of changes that have occurred at the facility since the previous inspection?

N/A

If not explain items that should have been included:

5. Did the inspection report accurately reflect the EPA oversight inspector's observations? If not, explain the differences:

x

* EPA oversight inspector would have cited the facility in violation of NR 181.42(4)(b) - Access to internal alarms, the State inspector noted it as an "Area of Concern" in the letter report.

Oversight Inspection Form

II. Remarks

1. What is your overall assessment of the inspection and the inspection report?

Inspection was conducted very professionally.

Letter to facility very specifically stated State Inspectors
expectations for compliance.

2. Describe recommendations that may improve the quality of the State inspection and/or inspection report?

Letter did not include some comments contained in inspection
checklist, i.e., pg. 12 of report "recommend adding aisle space...",
this concern was not reflected in letter.

NOTE: Indicate whether the inspector is in need of additional training or is lacking in a particular skill (e.g. hazardous waste sampling) needed for an adequate inspection.

3. Comments on the inspection that could have a bearing on the State inspector evaluation (e.g., facility status under litigation, inadequate time allocated to perform inspection, complex industrial processes and waste handling practices, or numerous regulated units located on site).

State Inspector has been with WDNR less than one year. Had a very
good grasp of Federal and State regulations.

State Inspector felt that additional training regarding Land Ban
and State Authorization would be useful. Also, felt more respirators
are needed and risk assessment training.

CORRESPONDENCE / MEMORANDUM

STATE OF WISCONSIN

DATE: June 12, 1984

4430

TO: District Director SED (District)

(Solid Waste Coordinator)

FROM: Richard O'Hara - SW/3

Robert C. Fischer - SW/3

SUBJECT: Incorrect/Improper Use of Wisconsin Hazardous Waste Manifest(s) -
(Form 4400-66)

North American Clutch Corp

3117 W. Mill Road - Milwaukee, Wis

The attached (2) photocopy(s) of DNR form 4400-66 represent non-compliance of Wisconsin Administrative Code NR 181. Please contact the participants within 15 days and forward the contact form with your findings to the Bureau of Solid Waste Management.

★ The Generator (shipper) claimed Small Quantity Exemption status but the waste amounts exceed the exemption levels (2,200 pounds).

440 lbs
x 13 drums

★ Generator (shipper) information is missing, invalid or illegible.

5,720 lbs

★ 1. EPA ID Number

3. Address

2. Certification

4. Other

EPA Non-Notifier & DNR-Survey Non-Respondent

Hazardous Waste Management Facility information is missing, invalid or illegible.

1. EPA ID Number

3. Address

2. Certification

4. Other

Small Quantity Generator (without EPA ID Number) is indicated. DNR form 4400-66 should not be used unless all EPA ID numbers are provided.

The wrong Manifest copy has been submitted to BSWM (BSWM will return the wrong copy to the Shipper or Hazardous Waste Facility upon receipt of the proper BSWM copy).

Required Hazardous Waste information is missing. The Generator (shipper) is required to provide all waste information on the Manifest.

1. Number and Type of Container

3. US DOT ID Number

2. US DOT Hazard Class

★ 4. Other Total Waste

Improper/Inappropriate use of the Manifest form has occurred.

1. Non-Hazardous Waste Shipment

2. Other

Inquiries, corrections and completed forms should be directed to BSWM, Systems Management Section, Dave Charles at (608)267-7551.

Attach.

cc: Hazardous Waste Manifest File

3672-R

See reverse side, Copy 6, for instructions.

Please type or print clearly using ball point pen - press hard.

SEP 13 1982

HAZARDOUS WASTE MANIFEST FORM
Wisconsin Statutes 144
FORM 4400-66

A 45205

GENERATOR (SHIPPER) SECTION																			
1. COMPANY NAME North American Clutch Corp.				2. EPA IDENTIFICATION NO. small generator		3. COMMENTS/SPECIAL INSTRUCTIONS													
4. P.O. BOX OR STREET ADDRESS 3117 W. Mill Rd.																			
5. CITY, STATE, ZIP CODE Milwaukee, WI 53209				6. TELEPHONE NUMBER (414) 352-9727															
7. NUMBER & TYPE OF CONTAINER		8. GALLONS		9. WASTE NAME				10. US DOT HAZARD CLASS		11. US DOT IDENTIFICATION NUMBER		12. PHYSICAL STATE (Enter number in box)		13. US EPA WASTE CODE		14. SHIPPING WEIGHT (Pounds)			
13 55 gal. drums		715		Waste, combustible liquid NOS liquid				combustible liquid		NA1993		1. Solid 3. Mixture <input checked="" type="checkbox"/> 2. Liquid		D001		440#/drum			
												1. Solid 3. Mixture <input type="checkbox"/> 2. Liquid							
												1. Solid 3. Mixture <input type="checkbox"/> 2. Liquid							
This is to certify that the information contained herein is true, accurate and complete and that the above named materials are properly classified, described, packaged, marked and labeled and are in proper condition for transportation according to the applicable regulations of the U.S. Department of Transportation and the Wis. Department of Natural Resources or the U.S. Environmental Protection Agency.														15. AUTHORIZED SIGNATURE <i>Dan Margarten</i>		16. NAME (Print) Dan Margarten		17. DATE SHIPPED M / D / Y 9/3/82	

TRANSPORTER SECTION			
18. COMPANY NAME Commerce Industrial Chemicals		19. EPA IDENTIFICATION NO. WID023375884	
20. P.O. BOX OR STREET ADDRESS 3420 W. Mill Rd.			
21. CITY, STATE, ZIP CODE Milwaukee, WI 53209		22. TELEPHONE NUMBER (414) 353-3630	
23. COMMENTS			
I hereby certify that the above named materials and indicated quantity(ies) has (have) been accepted in proper condition for transportation and I acknowledge that delivery shall be made to the facility designated as Hazardous Waste Facility.			
24. AUTHORIZED SIGNATURE <i>J. E. Petersen</i>		25. NAME (Print) J. E. Petersen	
		26. Date Accepted 9/13/82	
I hereby certify that the above named materials and indicated quantity(ies) has (have) been accepted in proper condition for transportation and I acknowledge that delivery shall be made to the facility designated as Hazardous Waste Facility.			
27. 2nd. TRANSPORTER COMPANY NAME		28. EPA IDENTIFICATION NO.	
29. AUTHORIZED SIGNATURE		30. NAME (Print)	
		31. Date Accepted M / D / Y	

HAZARDOUS WASTE FACILITY SECTION			
32. FACILITY NAME Commerce Industrial Chemicals		33. EPA IDENTIFICATION NO. WID023375884	
34. P.O. BOX OR STREET ADDRESS 3420 W. Mill Rd.			
35. CITY, STATE, ZIP CODE Milwaukee, WI 53209		36. TELEPHONE NUMBER (414) 353-3630	
37. COMMENTS			
I hereby certify that the above named materials and indicated quantity(ies) has (have) been received and accepted.			
38. AUTHORIZED SIGNATURE <i>Donald J. Ellis</i>		39. NAME (Print) Donald J. Ellis	
		40. Date Accepted 9/17/82	
I hereby certify that the above named materials and indicated quantity(ies) has (have) been received and accepted.			
41. ALTERNATE HAZARDOUS WASTE FACILITY NAME		42. EPA IDENTIFICATION NO.	
43. AUTHORIZED SIGNATURE		44. NAME (Print)	
		45. Date Accepted M / D / Y	
46. MAIL TO: Department of Natural Resources Bureau of Solid Waste Management Box 8094 Milwaukee, Wisconsin 53707		47. Emergency 24 Hour Assistance Telephone Number In Wisconsin (608-266-3232) Outside Wisconsin (800-424-8802)	
FOR DNR USE ONLY IS			

BUREAU SOLID WASTE MGT. SEND TO BOX 46

CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

DATE: 12 June 1984

4430

TO: District Director SED (District)

(Solid Waste Coordinator)

FROM: Richard O'Hara - SW/3

Robert C. Fischer - SW/3

SUBJECT: Incorrect/Improper Use of Wisconsin Hazardous Waste Manifest(s) -
(Form 4400-66)

Sterling Inc - 5200 W. Clinton Ave - Milwaukee

The attached (6) photocopy(s) of DNR form 4400-66 represent non-compliance of Wisconsin Administrative Code NR 181. Please contact the participants within 15 days and forward the contact form with your findings to the Bureau of Solid Waste Management.

#113926 #145985

★ The Generator (shipper) claimed Small Quantity Exemption status but the waste amounts exceed the exemption levels (2,200 pounds). #11603 #28919

★ Generator (shipper) information is missing, invalid or illegible.

✓ 1. EPA ID Number

3. Address

2. Certification

4. Other

EPA Non-Notified - DNR Survey Respondent as Small Quant. Gen.

Hazardous Waste Management Facility information is missing, invalid or illegible.

1. EPA ID Number

3. Address

2. Certification

4. Other

Small Quantity Generator (without EPA ID Number) is indicated. DNR form 4400-66 should not be used unless all EPA ID numbers are provided.

✓ *1st* *copies have not been*
The ~~wrong~~ Manifest copy has been submitted to BSWM (BSWM will return the wrong copy to the Shipper or Hazardous Waste Facility upon receipt of the proper BSWM copy). *please contact them & request matching copies be submitted.*

Required Hazardous Waste information is missing. The Generator (shipper) is required to provide all waste information on the Manifest.

1. Number and Type of Container

3. US DOT ID Number

2. US DOT Hazard Class

4. Other

Improper/Inappropriate use of the Manifest form has occurred.

1. Non-Hazardous Waste Shipment

2. Other

Inquiries, corrections and completed forms should be directed to BSWM, Systems Management Section, Dave Charles at (608)267-7551.

Attach.

cc: Hazardous Waste Manifest File

3672-R

MAY 13 1983

HAZARDOUS WASTE MANIFEST FORM
Wisconsin Statutes 144
FORM 4400-66

REV. 6-81

A 11 16

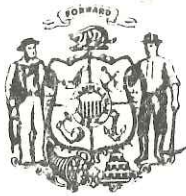
See reverse side, Copy 6, for instructions.

Please type or print clearly using ball point pen — press hard.

GENERATOR (SHIPPER) SECTION			2. EPA IDENTIFICATION NO.		3. COMMENTS/SPECIAL INSTRUCTIONS			
1. COMPANY NAME			Sterling, Inc.		exempt small generator			
4. P.O. BOX OR STREET ADDRESS			5200 W. Clinton Ave.					
5. CITY, STATE, ZIP CODE			Milwaukee, WI 53223		6. TELEPHONE NUMBER			
			(414) 354-0970					
7. NUMBER & TYPE OF CONTAINER	8. GALLONS	9. WASTE NAME		10. US DOT HAZARD CLASS	11. US DOT IDENTIFICATION NUMBER	12. PHYSICAL STATE (Enter number in box)	13. USE EPA WASTE CODE	14. SHIPPING WEIGHT (Pounds)
6 drums	330	waste flammable liquid N.O.S.		flammable liquid	UN 1993	1. Solid 3. Mixture <input checked="" type="checkbox"/> 2. Liquid	D001	2496
		solvent				1. Solid 3. Mixture <input type="checkbox"/> 2. Liquid		
						1. Solid 3. Mixture <input type="checkbox"/> 2. Liquid		
This is to certify that the above named materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the U.S. Department of Transportation and the EPA and the Wis. Department of Natural Resources. I also certify that the information contained herein is true, accurate and complete.				15. AUTHORIZED SIGNATURE		16. NAME (Print)		17. DATE SHIPPED M / D / Y
						Terrence C. Melius		4/25/83

TRANSPORTER SECTION			19. EPA IDENTIFICATION NO.	
18. COMPANY NAME			Commerce Industrial Chemical	
20. P.O. BOX OR STREET ADDRESS			5611 W. Woolworth Ave.	
21. CITY, STATE, ZIP CODE			Milwaukee, WI 53209	
22. TELEPHONE NUMBER			(414) 353-3630	
23. COMMENTS				
I hereby certify that the above named materials and indicated quantity(ies) has (have) been accepted in proper condition for transportation and I acknowledge that delivery shall be made to the facility designated as Hazardous Waste Facility.				
24. AUTHORIZED SIGNATURE		25. NAME (Print)		26. Date Accepted
[Signature]		Jeff White		4/25/83
I hereby certify that the above named materials and indicated quantity(ies) has (have) been accepted in proper condition for transportation and I acknowledge that delivery shall be made to the facility designated as Hazardous Waste Facility.				
27. 2nd. TRANSPORTER COMPANY NAME			28. EPA IDENTIFICATION NO.	
29. AUTHORIZED SIGNATURE			30. NAME (Print)	
31. Date Accepted			M / D / Y	

HAZARDOUS WASTE FACILITY SECTION			33. EPA IDENTIFICATION NO.	
32. FACILITY NAME			Commerce Industrial Chemical	
34. P.O. BOX OR STREET ADDRESS			5611 W. Woolworth Ave.	
35. CITY, STATE, ZIP CODE			Milwaukee, WI 53209	
36. TELEPHONE NUMBER			(414) 353-3630	
37. COMMENTS				
I hereby certify that the above named materials and indicated quantity(ies) has (have) been received and accepted.				
38. AUTHORIZED SIGNATURE		39. NAME (Print)		40. Date Accepted
[Signature]		Terrence C. Melius		4/25/83
I hereby certify that the above named materials and indicated quantity(ies) has (have) been received and accepted.				
41. ALTERNATE HAZARDOUS WASTE FACILITY NAME			42. EPA IDENTIFICATION NO.	
43. AUTHORIZED SIGNATURE			44. NAME (Print)	
45. Date Accepted			M / D / Y	
46. MAIL TO:			47. Emergency 24 Hour Assistance Telephone Number	
Department of Natural Resources Bureau of Solid Waste Management Box 8094 Madison, Wisconsin 53708			In Wisconsin (608-266-3232) Outside Wisconsin (800-424-8802)	
FOR DNR USE ONLY			RIS	



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

January 12, 1984

IN REPLY REFER TO: 4430

Mr. Donald J. Michaelski, President
Commerce Industrial Chemicals
5611 W. Woolworth Avenue
Milwaukee, WI 53218

RECEIVED
JAN 19 1984

WASTE MANAGEMENT
BRANCH

Don
Dear Mr. Michaelski:

This letter is to acknowledge receipt via the United States Environmental Protection Agency - Region V, of the one (1) "copy of the additional information submitted by (you)", for the Commerce Industrial Chemicals' incinerator and storage facility, EPA #WID0980795181, located at 5611 W. Woolworth Avenue, City of Milwaukee, Milwaukee County by the Bureau of Solid Waste Management on January 3, 1984.

"NR 2.19(3) APPLICATION FOR CONFIDENTIAL STATUS. Any person seeking confidential treatment of information shall file with the Department a written application for confidential status containing in affidavit form: (a) The name and address of the applicant; (b) The position of the individual filing the application; (c) The specific type of information for which confidential status is sought; (d) The facts and supporting legal authority believed to constitute a basis for obtaining confidential treatment of the information."

For NR 2.19(3)(d) listed above, Section 144.433(2), Wisconsin Statutes, can be applied.

For your reference, copies of NR 2.19 and Section 144.433(2) are enclosed.

If you have any questions, please contact Mr. Rajen M. Vakharia, Engineer at (608) 266-0272.

Sincerely,
Bureau of Solid Waste Management

Richard E. O'Hara

Richard E. O'Hara, Chief
Hazardous Waste Section

096-26

REO:KM:mk/3645Q

Enc.

cc: G. McCutcheon, Southeast District
A. Glor, SED
Systems Management Section, SW/3
U.S. EPA - Region V, Chicago

DEC 3, 1983

5HW-13

Ms. Harriet Pederson
Commerce Industrial Chemicals, Inc.
5611 W. Woolworth Avenue
Milwaukee, Wisconsin 53218

Dear Ms. Pederson:

In accordance with the provisions of 40 CFR 2.035(h)(3) the United States Environmental Protection Agency (U.S. EPA) is releasing a copy of the documents you submitted regarding the hazardous waste storage feed tank that is adjoined to your Kelley model incinerator unit to the State of Wisconsin. The regulation cited above permits U.S. EPA to share such information which is confidential, or is claimed confidential, with authorized representatives of the United States.

In a March 5, 1982 Legal Opinion, our office of Regional Counsel determined that Wisconsin's use and disclosure of such information is governed by State law and procedures which provide adequate protection to the interests of affected businesses.

Please contact Ms. Mary Gade of our Office of Regional Counsel at (312) 886-7457, if you have any questions concerning the release of this information.

Sincerely yours,

Karl J. Klepitsch, Chief
Waste Management Branch

5HW-13:WMUNO:SSMITH:12/27/83

196-25

INITIALS	TYPIST	AUTHOR	STU #1 CHIEF	STU #2 CHIEF	STU #3 CHIEF	TIPS CHIEF	DATE
	AS	AS					12/27/83
							12/28/83
							12/29/83
							12/30/83

DNK 12/28/83
JES (fmg) 12/30/83
12/30/83

DEC 28 1983

5HW-13

REGISTERED MAIL
RETURN RECEIPT REQUESTED

Mr. Richard O'Hara
Wisconsin Department of Natural
Resources
Box 8094
Madison, Wisconsin 53700

ATTENTION: Raj Vakharia

RE: Commerce Industrial Chemicals
WID0980795181

Dear Mr. O'Hara:

Enclosed is a copy of the additional information submitted by the applicant in response to our letter of September 12, 1983. Please complete the technical review, and advise the U.S. Environmental Protection Agency (U.S. EPA) of the facility's status by February 1, 1984. If the State recommends issuance of the permit, please submit a draft permit including Attachments, and a Statement of Basis by April 1, 1984.

Portions of the enclosed material do contain confidential business information, and we are releasing this information to you pursuant to the provisions of 40 CFR 2.305(h)(3). We request that you use and disclose this information in accordance with Wisconsin's law and procedures on the treatment of confidential information. The State agreed to protect such information to the full extent possible under Wisconsin law in the Memorandum of Agreement in its approved application for Phase I Interim Authorization.

We are informing Commerce Industrial Chemicals of this disclosure. Please address to them any questions concerning the information claimed confidential.

If you have any questions regarding this application, please contact Mr. Allen A. Debus of my staff at (312) 886-6151.

Sincerely yours,

ORIGINAL SIGNED BY
WILLIAM H. MINER

William H. Miner, Chief
Technical, Permits and Compliance Section

Enclosures

bcc: C. Berlin (SS)
Richard Karl (SIO)

5HW-13:WMB:SSMITH:12/27/83

TYPIST

AUTHOR

STU #1
CHIEF

STU #2
CHIEF

STU #3
CHIEF

TPS
CHIEF

WMB
CHIEF

WMB
CHIEF

12/27/83

12/27/83

12/27/83

12-27

OCT 17 1983

Notes from Pre-permit RCRA Site Inspection
of Commerce Industrial Chemicals of
Milwaukee, WI, U.S. EPA ID# WID 980795181

Allen A. Debus, STU #3

TO: File

THRU: William E. Muno, Chief - STU #3

On September 28, 1983, Allen A. Debus (U.S. EPA), and Messrs. Richard O'Hara and Rajen Vakharia (WDNR) met with Harriet Pederson and Donald Michalski of Commerce Industrial Chemicals (CIC) and inspected the facility for the purposes of conducting a RCRA pre-permit inspection. Inspectors observed the hazardous waste storage area, and the Kelly 380B model incinerator which is not currently operating.

Type I Hazardous wastes were stored three pallets high inside a warehouse on top of a concrete base. Type II and Type III wastes were segregated from Type I and from each other, and were also stored on pallets. These wastes were also stored indoors. There were approximately 290 drums in storage, most of which were Type I wastes. The secondary containment area had not yet been installed. The concrete floor appeared to be in good condition although a surface coating had not been applied. There was a 2 to 3 foot clearance to walk between the stacked pallets of Type I waste. This was sufficient room to allow inspection of drums, although if leakage was observed in the columns closest to the wall, several pallets would have to be moved before the leaking drum could be reached with a fork-lift truck.

The incinerator was not yet constructed, and attention focused on the reservoir-inlet flow device. This system included a 118 gallon holding tank, a strainer, metering valve, and gear pump. The maximum incineration rate of the system is 102 lb/hour, which is approximately equivalent to the incineration of the entire contents of two 55-gallon drums per day.

Two drums would be carried in from the secondary containment area via forklift, and the contents transferred into the reservoir tank by an air driven (frictionless) pump. After the tank is full, Type I wastes would be fed to the incinerator through the strainer/gear pump system.

The CIC representatives maintained that the information called for in U.S. EPA's letter of September 12, 1983, regarding the reservoir system was unnecessary because it is an integral part of the incineration system. U.S. EPA had claimed that since the unit is being used for the primary purpose of waste incineration

096-19

of off-site generated wastes, that the reservoir feed tank must be regarded as a 40 CFR 264 Subpart J hazardous waste storage tank. Commerce had called Denise Wright at the U.S. EPA RCRA Hotline phone number in Washington to inquire about the matter. On September 29, 1983, Allen Debus spoke to Dave Fagan (U.S. EPA-HQ) regarding this matter, and was informed that Region V's interpretation was correct. Furthermore, since off-site generated wastes are being accepted, the 90 day accumulation time exemption under 40 CFR Part 262.34 does not apply to this particular tank. Region VII has proposed a guideline for permitting of feed tanks associated with heat recovery units, but their scheme would not apply to this instance since CIC will be operating a 40 CFR 264 Subpart O incinerator.

The subject of ash generated from the incinerator was also discussed. In CIC's Part B Application, it was stated that generated ash would be tested for "heavy metal" characteristics and if found in excessive quantities as defined in 40 CFR 261.24, would be disposed of as a hazardous waste.

This scheme is not consistent with regulations under 40 CFR 261.3(c) and (d). Since some wastes will be incinerated which are Subpart D hazardous wastes, the ash generated from its incineration must be considered and disposed of as hazardous waste. Ms. Pederson explained that CIC would submit a revised Part B page simply stating that all ash generated from incineration of Subpart C or Subpart D hazardous wastes will be disposed of as hazardous waste.

CIC was advised that signs placed in the storage area would well serve to control storage of the various types of wastes in designated areas. This would prevent accidental mixing of wastes which are not exempted under 40 CFR 264.340(b) with those considered to be regulated under this section, (e.g. D001 and F003 hazardous waste codes). Furthermore, CIC was advised that a small secondary containment area should be placed around the drums that are being pumped into the incinerator's reservoir tank to prevent migration of accidental spillage. Furthermore, a chain-link fence should be placed around the incinerator if it is to be placed out-of-doors to conform with 40 CFR Part 264.14. Appropriate signs must be placed on this fence.

U.S. EPA must receive the 40 CFR Part 264 Subpart J information from CIC before it can begin drafting a RCRA permit in coordination with the WDNR. CIC must demonstrate that all physical construction has been completed before a RCRA permit can be issued.

5HW-13:AADEBUS:ap:6-3731:10/17/83 (Disk #1)

INITIALS	TYPIST Ap	AUTHOR AS	STU #1 CHIEF	STU #2 CHIEF	STU #3 CHIEF	TPS CHIEF	WMB CHIEF	WDR
DATE	10/17/83	10/17/83						

COMMERCE Industrial Chemicals Inc.

5611 W. WOOLWORTH AVE.
MILWAUKEE, WIS. 53218

PHONE: (414) 353-3630



"A Solvent For Every Purpose"

August 17, 1981

Mr. Paul Dimock
E.P.A. Specialist Region V
230 South Dearborn Avenue
Chicago, Illinois 60604

Dear Sir:

Regarding the inspection of the hazardous waste facility of Commerce Industrial Chemicals, Inc., located at 5611 West Woolworth Avenue; Milwaukee, Wisconsin, please be advised of the following:

1. A Waste Analysis Plan has been developed and a copy sent to Mr. Victor Pappas of the Wisconsin Department of Natural Resources.
2. An inspection schedule has been established.
3. An operating record has been formulated.
4. A formal Contingency Plan has been developed and posted.

The above items are identical to those established for our other facility at 3420 West Mill Road; Milwaukee, Wisconsin. These documents have been reviewed and are on file with Mr. Victor Pappas of the Wisconsin Department of Natural Resources.

Please feel free to call if there should be a need for further information.

Very truly yours,



Donald J. Michalski

DISTRIBUTORS OF



SOLVENTS AND ALCOHOLS

JUL 30 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SEWHME

Mr. Donald J. Michalski
Commerce Industrial Chemicals, Inc.
5611 Woolworth Avenue
Milwaukee, Wisconsin 53218

RE: Commerce Industrial Chemicals, Inc.
Woolworth Avenue Facility, WIT560010035

Dear Mr. Michalski:

Notice is hereby given that the United States Environmental Protection Agency (U.S. EPA) has determined that the above facility is in violation of a requirement of Subtitle C of the Resource Conservation and Recovery Act (RCRA) as amended by the Quiet Communities Act of 1978. Specifically it has been determined that Commerce Industrial Chemicals Inc., is in violation of Section 3004 of RCRA (42 USC 6924).

On April 13, 1981, a representative of the Wisconsin Department of Natural Resources (WDNR) inspected your facility at Woolworth Avenue, Milwaukee, Wisconsin. The purpose of this inspection was to determine your facility's compliance status with RCRA. The inspector found areas of non-compliance as follows:

1. Part 265.13(b) - No waste analysis plan
2. Part 265.15(b) - No inspection schedule
3. Part 265 subpart D - No contingency plan
4. Part 265.73 - No operating record

You are hereby requested to provide documentation to this office, within 15 days after receipt of this Notice of Violation, informing us of action taken to correct these violations. Please address such documentation to U.S. Environmental Protection Agency, Enforcement Division, Attention: Water & Hazardous Materials Compliance Section, 230 South Dearborn, Chicago, Illinois 60604. A copy of your response should also be sent to Mr. Robert Krill, Bureau of Solid Waste, Wisconsin Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707. If you have any questions, please contact Paul Dimock at (312) 353-2114.

Very truly yours,

Original Signed by Sandra S. Gardebring

Sandra S. Gardebring
Director, Enforcement Division

cc: Robert Krill, Chief
Bureau of Solid Waste
Wisconsin Department of Natural Resources

bcc: Constantelos/Klepitsch
 Rick Karl, SIO
 Messenger
 Brunet
 Dimock
 Victor Pappas

*Called Karl
 7-20*

PDIMOCK/td/7-14-81 *PEA 7-15-81*
 Messenger *was 7/22*
 Donaldson *td*
 Leder *was 7/22*
 Myers *for 7/22*
 Manzardo
 Fenner *> am 7/23 (Act)*
 Bryson
 Gardebring



State of Wisconsin

P.O. Box 13248
Milwaukee, WI 53213

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

April 16, 1981

IN REPLY REFER TO: 4400

Mr. Donald J. Michalski
Commerce Industrial Chemicals, Inc.
5611 Woolworth Ave.
Milwaukee, WI 53218

Dear Mr. Michalski:

The Wisconsin Department of Natural Resources is cooperating with the U.S. EPA Region V in carrying out the provisions of the Resource Conservation and Recovery Act of 1976, Public Law 94-580. In this effort, personnel of the Wisconsin DNR are conducting inspections of facilities in Wisconsin that are engaged in generation, transportation, storage, treatment and disposal of hazardous waste materials. This letter is to transmit a copy of the facility evaluation form and identify those deficiencies, if any, noted during this inspection.

Facility Name: Commerce Industrial Chemicals, Inc. - Woolworth Avenue Facility

Address: 5611 Woolworth Avenue, Milwaukee, WI 53218

Contact: Donald Michalski

Date of Inspection: April 13, 1981

Inspector: Victor C. Pappas

Areas of Non-Compliance: Waste Analysis Plan, Inspection Schedule,
Contingency Plan, Operating Record

A copy of this letter and the inspection report will be sent to the U.S. EPA Region V office in Chicago. Any enforcement action related to this inspection will be initiated by U.S. EPA's Enforcement Division; in that case, U.S. EPA will contact you.

I hope that your company will take the appropriate actions necessary to rectify these areas of non-compliance. If you have any questions, or if we can provide any assistance to you, please contact me at (414) 257-4443 or Rick Karl at (312) 886-3774 of U.S. EPA, Region V.

Sincerely,

Victor C. Pappas

Hazardous Waste Specialist

cc: David Degenhardt - SW/3
Rick Karl, U.S. EPA, Region V ←

RCRA INSPECTION REPORT - INTERIM STATUS STANDARDS
TREATMENT, STORAGE, AND DISPOSAL FACILITIES
Form A - General Facility Standards

I. General Information:

- (A) Facility Name: Commerce Industrial chemical, inc.
(B) Street: 5611 Woolworth Ave
(C) City: Milwaukee (D) State: Wisconsin (E) Zip Code: 53218
(F) Phone: (414) 353-3630 (G) County: Milwaukee
(H) Operator: Commerce Industrial Chemicals, Inc.
(I) Street: 5611 Woolworth Ave
(J) City: Milwaukee (K) State: Wisconsin (L) Zip Code: 53218
(M) Phone: (414) 353-3630 (N) County: Milwaukee
(O) Owner: Commerce Industrial Chemicals, Inc
(P) Street: 5611 Woolworth Ave
(Q) City: Milwaukee (R) State: Wisconsin (S) Zip Code: 53218
(T) Phone: (414) 353-3630 (U) County: Milwaukee
(V) Date of Inspection: 4-13-81 (W) Time of Inspection (From) 1:00 pm (To) 3:45 pm
(X) Weather Conditions: Cloudy

GENERAL FACILITY STANDARDS:
(Part 265 Subpart B)

N.A. = NOT Applicable

	Yes	No	NI*	Remark
Has the Regional Administrator been notified regarding:				
1. Receipt of hazardous waste from a foreign source?	—	—	<u>NA</u>	_____
2. Facility expansion?	—	—	<u>NA</u>	_____
 (B) General Waste Analysis:				
1. Has the owner or operator obtained a detailed chemical and physical analysis of the waste?	<u>X</u>	—	—	_____
2. Does the owner or operator have a detailed waste analysis plan on file at the facility?	—	<u>X</u>	—	have a worked out plan but not written
3. Does the waste analysis plan specify procedures for inspection and analysis of each movement of hazardous waste from off-site?	—	<u>X</u>	—	have a set procedure but not in waste analysis plan
 (C) Security - Do security measures include: (if applicable)				
1. 24-Hour surveillance?	<u>X</u>	—	—	locked inside plant
2. Artificial or natural barrier around facility?	<u>X</u>	—	—	_____
3. Controlled entry?	<u>X</u>	—	—	_____
4. Danger sign(s) at entrance?	—	—	<u>NA</u>	stored with raw products that are also hazardous
 (D) Do Owner or Operator Inspections Include:				
1. Records of malfunctions?	<u>X</u>	—	—	They would
2. Records of operator error?	—	—	<u>NA</u>	none have
3. Records of discharges?	—	—	<u>NA</u>	occurred

*Not Inspected

IV. PREPAREDNESS AND PREVENTION:
(Part 265 Subpart C)

(A) Maintenance and Operation
of Facility:

Is there any evidence of fire,
explosion, or release of
hazardous waste or hazardous
waste constituent?

Yes No NI* Remarks

— X —

(B) If required, does the facility
have the following equipment:

1. Internal communications or
alarm systems?
2. Telephone or 2-way radios
at the scene of operations?
3. Portable fire extinguishers,
fire control, spill control
equipment and decontamination
equipment?

X — —

X — —

X — —

exterior alarm that
can be heard
well inside

Indicate the volume of water and/or foam available for fire control:

City water - Sprinkler System

Also fire extinguishers

(C) Testing and Maintenance of
Emergency Equipment:

1. Has the owner or operator
established testing and
maintenance procedures
for emergency equipment?
2. Is emergency equipment
maintained in operable
conditions?

X — —

X — —

(D) Has owner or operator provided
immediate access to internal
alarms? (if needed)

— — NA

V. CONTINGENCY PLAN AND EMERGENCY PROCEDURES Continued

	Yes	No	NI*	Remarks
(B) Are copies of the Contingency Plan available at site and local emergency organizations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
(C) Emergency Coordinator				
1. Is the facility Emergency Coordinator identified?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Not in the contingency plan but posted in plant.
2. Is coordinator familiar with all aspects of site operation and emergency procedures?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. Does the Emergency Coordinator have the authority to carry out the Contingency Plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(D) Emergency Procedures				
If an emergency situation has occurred at this facility, has the Emergency Coordinator followed the emergency procedures listed in 265.56?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	NA

VI. MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING
(Part 265 Subpart E)

	Yes	No	NI*	Remarks
(A) Use of Manifest System				
1. Does the facility follow the procedures listed in §265.71 for processing each manifest?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Are records of past shipments retained for 3 years?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	They will be
(B) Does the owner or operator meet requirements regarding manifest discrepancies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

*Not Inspected

(A) Closure and Post Closure

- 4

- _____ ☒ _____

- ~~X~~

- X

Has the owner or operator supplied
a post closure monitoring plan?
(effective by May 19, 1981)

I USE AND MANAGEMENT OF CONTAINERS

Facility Name: _____ Date of Inspection: _____

1. Are containers in good condition?

X

- Y

- X

- X

- ✓

- X

8. Has the owner or operator observed the National Fire Protection Associations buffer zone requirements for tanks containing ignitable or reactive wastes?

Tank capacity: _____ gallons

Tank diameter: _____ feet

Distance of tank from property line _____ feet

(See table 2 - 1 through 2 - 6 of NFPA's "Flammable and Combustible Liquids Code - 1977" to determine compliance.)

K
SURFACE IMPOUNDMENTS

NA

Facility Name: _____

Date of Inspection: _____

1. Do surface impoundments have at least 60 cm (2 feet) of freeboard?

2. Do earthen dikes have protective covers?

3. Are waste analyses done when the impoundment is used to store a substantially different waste than before?

4. Is the freeboard level inspected at least daily?

5. Are the dikes inspected weekly for evidence of leaks or deterioration?

6. Are reactive & ignitable wastes rendered non-reactive or non-ignitable before storage in a surface impoundment? (If waste is rendered non-reactive or non-ignitable, see treatment requirements.)

7. Are incompatible wastes stored in different impoundments? (If not, the provisions of 40 CFR 265.17(b) apply.)

	Yes	No	NI*	Remarks
3. Has the owner or operator addressed the waste analysis requirements of 265.402?	_____	_____	_____	_____
4. Are inspection procedures followed according to 265.403?	_____	_____	_____	_____
5. Are the special requirements fulfilled for ignitable or reactive wastes?	_____	_____	_____	_____
6. Are incompatible wastes treated? (If yes, 265.17(b) applies.)	_____	_____	_____	_____

Note: EPA has temporarily suspended the applicability of the requirements of the hazardous waste regulations in 40 CFR Parts 122, 264 and 265 to owners and operators of (1) wastewater treatment tanks that receive, store, and treat wastewaters that are hazardous waste or that generate, store or treat a wastewater treatment sludge which is a hazardous waste where such wastewaters are subject to regulation under Sections 402 or 307(b) of the Clean Water Act (33 U.S.C. 1251 et seq.) and (2) neutralization tanks, transport vehicles, vessels, or containers which neutralize wastes which are hazardous only because they exhibit the corrosivity characteristic under 40 CFR §261.22, or are listed as hazardous wastes in Subpart D of 40 CFR Part 261 only for this reason.

IX

Complete this section if the owner or operator of a TSD facility also generates hazardous waste that is subsequently shipped off-site for treatment, storage, or disposal.

1. MANIFEST REQUIREMENTS

	Yes	No	NI*	Remarks
(A) Does the operator have copies of the manifest available for review?	<u>X</u>	_____	_____	_____
(B) Do the manifest forms reviewed contain the following information: (If possible, make copies of or record information from, manifest(s) that do not contain the critical elements)				
1. Manifest document number?	<u>X</u>	_____	_____	_____
2. Name, mailing address, telephone number, and EPA ID Number of Generator	<u>X</u>	_____	_____	_____

Omit Section 3 if the facility has interim status and its Part A permit application describes storage

3. On Site Accumulation

NA

	Yes	No	NI*	Remarks
1. Are containers marked with start of accumulation date?	_____	_____	_____	_____
2. Are the containers of hazardous waste removed from installation before they can accumulate for more than 90 days?	_____	_____	_____	_____
3. Are wastes stored in containers managed in accordance with 40 CFR Part 265.174 and 265.176 (weekly inspections of containers, containers holding ignitable or reactive wastes located at least 15 meters (50 Feet) from facility's property line?	_____	_____	_____	_____
4. If wastes are stored in tanks, are the tanks managed according to the following requirements?				
a. Are tanks used to store only those wastes which will not cause corrosion leakage or premature failure of the tank?	_____	_____	_____	_____
b. Do uncovered tanks have at least 60 cm (2 feet) of freeboard, dikes, or other containment structures?	_____	_____	_____	_____
c. Do continuous feed systems have a waste-feed cutoff?	_____	_____	_____	_____
d. Are required daily and weekly inspections done?	_____	_____	_____	_____
e. Are reactive & ignitable wastes in tanks protected or rendered non-reactive or non-ignitable? (If waste is rendered non-reactive or non-ignitable, see treatment requirements?	_____	_____	_____	_____
f. Are incompatible wastes stored in separate tanks? (If not, the provisions of 40 CFR §265.17(b) apply)	_____	_____	_____	_____

X
TRANSPORTER REQUIREMENTS
40 CFR Part 263

Complete this Section if the owner or operator transports hazardous waste.

I. MANIFEST SYSTEM AND RECORDKEEPING
(Subpart B)

	Yes	No	NI*	Remarks
Are copies of the completed manifests or shipping paper(s) available for review and retained for three years?	<u>X</u>	<u> </u>	<u> </u>	

II. INTERNATIONAL SHIPMENTS

A. Does the transporter record on the manifest the date the waste left the U.S.?	<u> </u>	<u> </u>	<u> </u>	
B. Are signed completed manifest(s) on file?	<u> </u>	<u> </u>	<u> </u>	

V. MISCELLANEOUS

A. Does transporter transport hazardous waste into the U.S. from abroad?	<u> </u>	<u> </u>	<u> </u>	
B. Does the transporter mix hazardous waste of different DOT shipping descriptions by placing them into a single container?	<u> </u>	<u> </u>	<u> </u>	

NOTE: If (A) or (B) were answered "Yes" then the Transporter is also a Generator and must comply with the Generator regulations.

*Not Inspected

REMARKS

Use this section to briefly describe site activities observed at the time of the inspection. Note any possible violations of Interim Status Standards.

This facility has 10 drums of hazardous waste stored inside.

Like the other facility, it is waste solvents. This materials has already been analyzed by the facility.



U.S. ENVIRONMENTAL PROTECTION AGENCY

GENERAL INFORMATION

Consolidated Permits Program

(Read the "General Instructions" before starting.)

Form Approved OMB No. 158-R0175

EPA I.D. NUMBER

FWIT560010035

GENERAL INSTRUCTIONS

If a preprinted label has been provided, affix it in the designated space. Review the information carefully; if any of it is incorrect, cross through it and enter the correct data in the appropriate fill-in area below. Also, if any of the preprinted data is absent (the area to the left of the label space lists the information that should appear), please provide it in the proper fill-in area(s) below. If the label is complete and correct, you need not complete Items I, III, V, and VI (except VI-B which must be completed regardless). Complete all items if no label has been provided. Refer to the instructions for detailed item descriptions and for the legal authorizations under which this data is collected.

PLEASE PLACE LABEL IN THIS SPACE

II. POLLUTANT CHARACTERISTICS

INSTRUCTIONS: Complete A through J to determine whether you need to submit any permit application forms to the EPA. If you answer "yes" to any questions, you must submit this form and the supplemental form listed in the parenthesis following the question. Mark "X" in the box in the third column if the supplemental form is attached. If you answer "no" to each question, you need not submit any of these forms. You may answer "no" if your activity is excluded from permit requirements; see Section C of the instructions. See also, Section D of the instructions for definitions of bold-faced terms.

SPECIFIC QUESTIONS	MARK 'X'		
	YES	NO	FORM ATTACHED
A. Is this facility a publicly owned treatment works which results in a discharge to waters of the U.S.? (FORM 2A)			
C. Is this a facility which currently results in discharges to waters of the U.S. other than those described in A or B above? (FORM 2C)			
E. Does or will this facility treat, store, or dispose of hazardous wastes? (FORM 3)	X		
G. Do you or will you inject at this facility any produced water or other fluids which are brought to the surface in connection with conventional oil or natural gas production, inject fluids used for enhanced recovery of oil or natural gas, or inject fluids for storage of liquid hydrocarbons? (FORM 4)			
I. Is this facility a proposed stationary source which is one of the 28 industrial categories listed in the instructions and which will potentially emit 100 tons per year of any air pollutant regulated under the Clean Air Act and may affect or be located in an attainment area? (FORM 5)			
B. Does or will this facility (either existing or proposed) include a concentrated animal feeding operation or aquatic animal production facility which results in a discharge to waters of the U.S.? (FORM 2B)			
D. Is this a proposed facility (other than those described in A or B above) which will result in a discharge to waters of the U.S.? (FORM 2D)			
F. Do you or will you inject at this facility industrial or municipal effluent below the lowermost stratum containing, within one quarter mile of the well bore, underground sources of drinking water? (FORM 4)			
H. Do you or will you inject at this facility fluids for special processes such as mining of sulfur by the Frasch process, solution mining of minerals, in situ combustion of fossil fuel, or recovery of geothermal energy? (FORM 4)			
J. Is this facility a proposed stationary source which is NOT one of the 28 industrial categories listed in the instructions and which will potentially emit 250 tons per year of any air pollutant regulated under the Clean Air Act and may affect or be located in an attainment area? (FORM 5)			

III. NAME OF FACILITY

1 SKIP COMMERCE INDUSTRIAL CHEMICALS, INC.

IV. FACILITY CONTACT

A. NAME & TITLE (last, first, & title)

2 MICHALSKI, DONALD PRESIDENT

B. PHONE (area code & no.)

414 353 3630

V. FACILITY MAILING ADDRESS

A. STREET OR P.O. BOX

3 5611 WEST WOOLWORTH AVENUE

B. CITY OR TOWN

4 MILWAUKEE

C. STATE D. ZIP CODE

WI 53218

VI. FACILITY LOCATION

A. STREET, ROUTE NO. OR OTHER SPECIFIC IDENTIFIER

5 5611 WEST WOOLWORTH AVENUE

B. COUNTY NAME

6 MILWAUKEE

C. CITY OR TOWN

6 MILWAUKEE

D. STATE E. ZIP CODE F. COUNTY CODE (if known)

WI 53218

7 2 3 6 9 (specify) Industrial Organic Chemicals C. THIRD	7 2 8 1 6 (specify) Inorganic Pigments D. FOURTH
------------------------------------------------------------------------	---------------------------------------------------------------

VIII. OPERATOR INFORMATION

A. NAME DONALD MICHALSKI	B. Is the name listed in Item VIII-A also the owner? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
------------------------------------	-----------------------------------------------------------------------------------------------------------------------------

C. STATUS OF OPERATOR (Enter the appropriate letter into the answer box; if "Other", specify.) F - FEDERAL M = PUBLIC (other than federal or state) S - STATE O = OTHER (specify) P - PRIVATE P (specify)	D. PHONE (area code & no.) <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;">4</td> <td style="width:15%;">1</td> <td style="width:15%;">4</td> <td style="width:15%;">7</td> <td style="width:15%;">7</td> <td style="width:15%;">4</td> <td style="width:15%;">8</td> <td style="width:15%;">5</td> <td style="width:15%;">8</td> <td style="width:15%;">0</td> </tr> </table>	4	1	4	7	7	4	8	5	8	0
4	1	4	7	7	4	8	5	8	0		

E. STREET OR P.O. BOX 1033 WEST WELLS STREET	
--------------------------------------------------------	--

F. CITY OR TOWN WAUWATOSA	G. STATE WI	H. ZIP CODE 53213	IX. INDIAN LAND Is the facility located on Indian lands? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
-------------------------------------	-----------------------	-----------------------------	------------------------------------------------------------------------------------------------------------------------------------

EXISTING ENVIRONMENTAL PERMITS																					
A. NPDES (Discharges to Surface Water)	D. PSD (Air Emissions from Proposed Sources)																				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;">9</td> <td style="width:10%;">P</td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> </tr> </table>	9	P									<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;">9</td> <td style="width:10%;">P</td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> </tr> </table>	9	P								
9	P																				
9	P																				
B. UIC (Underground Injection of Fluids)	E. OTHER (specify)																				
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9	P																				
9	P																				
C. RCRA (Hazardous Wastes)	E. OTHER (specify)																				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;">9</td> <td style="width:10%;">P</td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> </tr> </table>	9	P									<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;">9</td> <td style="width:10%;">P</td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> </tr> </table>	9	P								
9	P																				
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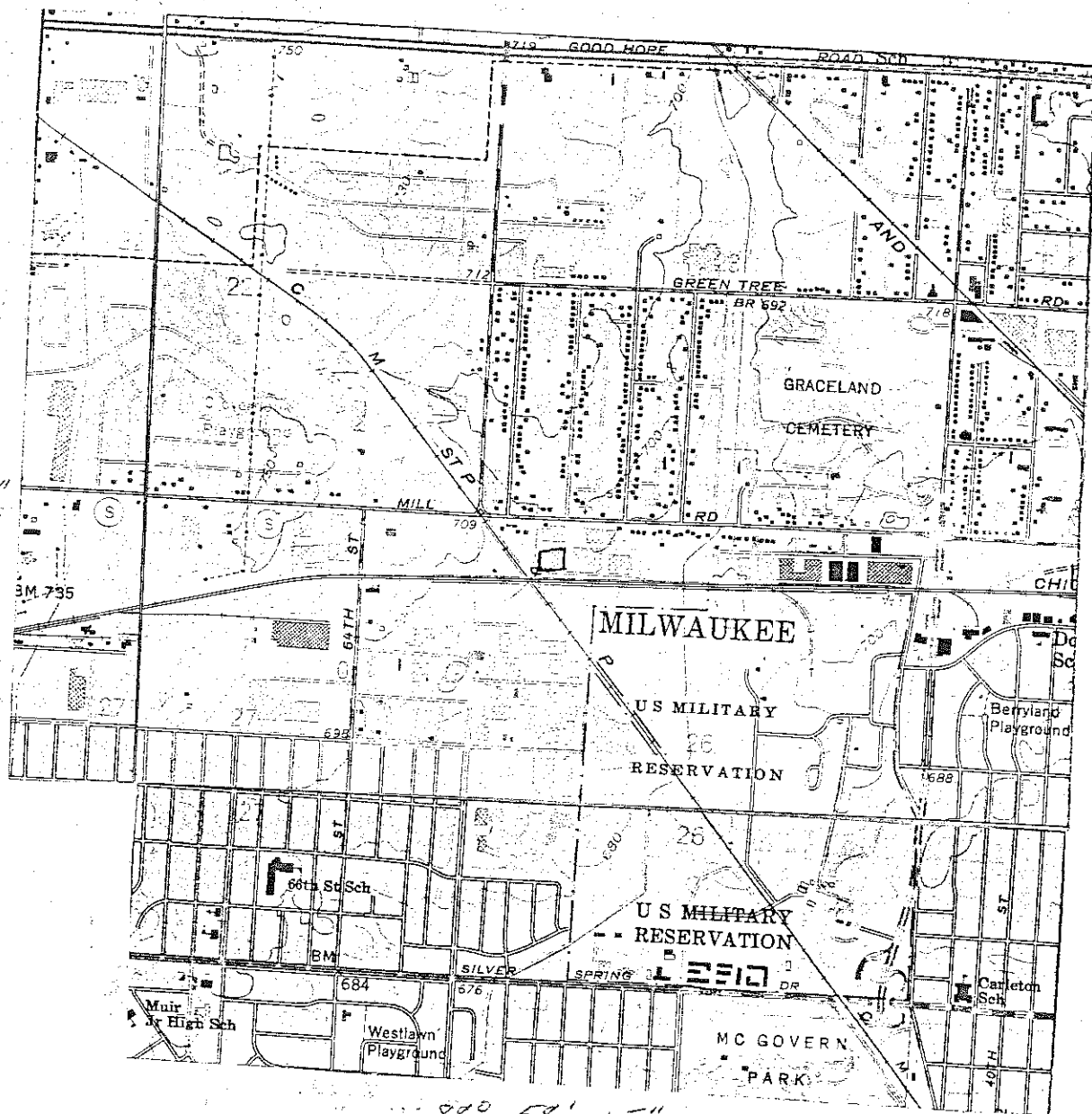
Attach to this application a topographic map of the area extending to at least one mile beyond property boundaries. The map must show the location of the facility, the location of each of its existing and proposed intake and discharge structures, each of its hazardous waste storage, or disposal facilities, and each well where it injects fluids underground. Include all springs, rivers and other surface features in the map area. See instructions for precise requirements.

NATURE OF BUSINESS (provide a brief description)

We are a non-manufacturing distributor of the above listed industrial organic chemicals and inorganic pigments.

I, the undersigned, declare under penalty of law that I have personally examined and am familiar with the information submitted in this application and all documents and that, based on my inquiry of those persons immediately responsible for obtaining the information contained in the application, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.		
A. SIGNATURE (type or print) Donald Michalski - President	B. SIGNATURE 	C. DATE SIGNED 11/14/70

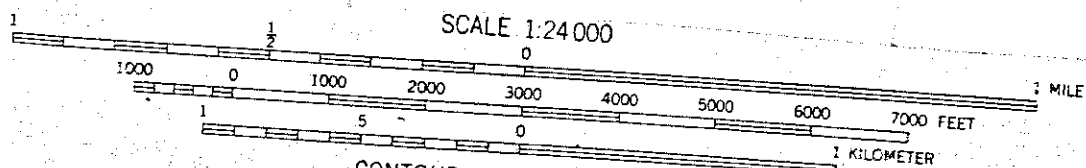
43° 08' 00"



88° 58' 15"



GRID AND 1976 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET



SCALE 1:24 000
CONTOUR INTERVAL 10 FEET
NATIONAL GEODETIC VERTICAL DATUM OF 1929
DEPTH CURVES AND SOUNDINGS IN FEET—DATUM IS 578 FEET

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U. S. GEOLOGICAL SURVEY, RESTON, VIRGINIA 22092
AND WISCONSIN GEOLOGICAL AND NATURAL HISTORY SURVEY, MADISON, WISCONSIN 53706
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

U.S. GEOLOGICAL SURVEY SERVICE
ENGINEERS AND SURVEYORS

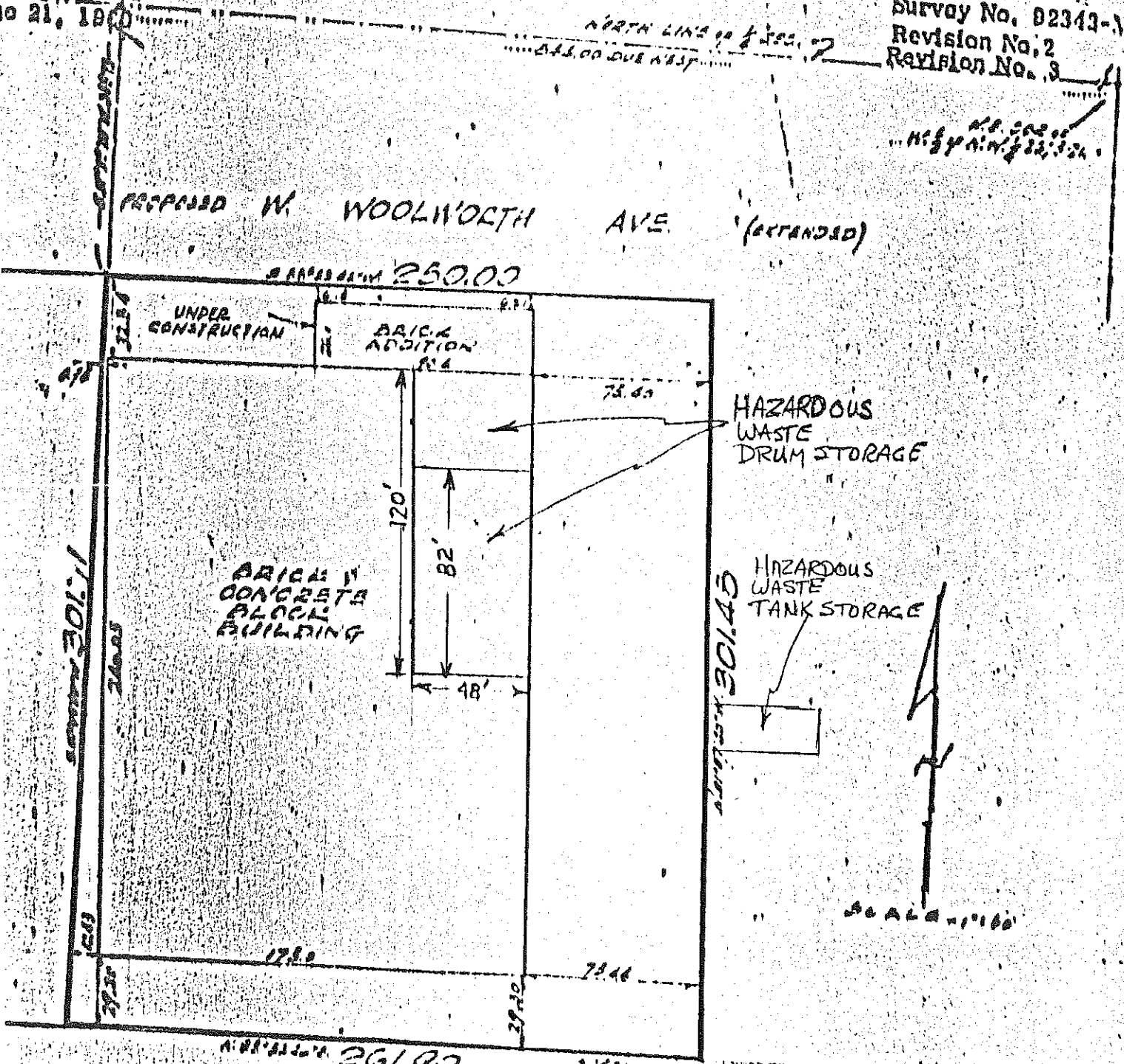


2-7-7

continuing thence South 08° 00' West and parallel to the East line of the
 West 1/2 of said 1/4 Section 301, 71 ft. to a point in the North line of the Chicago and
 Northwestern Railroad right of way; thence North 88° 53' 40" East along the North line of
 the Chicago and Northwestern Railroad right of way 261.00 ft. to a point; thence
 North 01° 07' 40" West 301, 40 ft. to a point; thence South 88° 53' 40" West and parallel to
 the line of the Chicago and Northwestern Railroad right of way 250.00 ft. to the point
 of beginning.
 February 9, 1900

April 13, 1900
 May 21, 1900

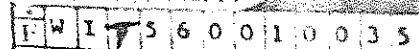
Survey No. 92342-1
 Revision No. 2
 Revision No. 3



that we have surveyed the above described property and that the above plat is an accurate
 survey and a true representation thereof and correctly shows the exterior boundary lines and
 of buildings and other improvements on said property and the correct measurements thereof.

ONAL SURVEY SERVICE
 ENGINEERS AND SURVEYORS





COMMENTS

CONTINUE ON REVERSE

IV. DESCRIPTION OF HAZARDOUS WASTES

- A. EPA HAZARDOUS WASTE NUMBER - Enter the four-digit number from 40 CFR, Subpart D for each listed hazardous waste you will handle. If you handle hazardous wastes which are not listed in 40 CFR, Subpart D, enter the four-digit number(s) from 40 CFR, Subpart C that describes the characteristics and/or the toxic contaminants of those hazardous wastes.
- B. ESTIMATED ANNUAL QUANTITY - For each listed waste entered in column A estimate the quantity of that waste that will be handled on an annual basis. For each characteristic or toxic contaminant entered in column A estimate the total annual quantity of all the non-listed waste(s) that will be handled which possess that characteristic or contaminant.
- C. UNIT OF MEASURE - For each quantity entered in column B enter the unit of measure code. Units of measure which must be used and the appropriate codes are:

ENGLISH UNIT OF MEASURE	CODE	METRIC UNIT OF MEASURE	CODE
POUNDS	P	KILOGRAMS	K
TONS	T	METRIC TONS	M

If facility records use any other unit of measure for quantity, the units of measure must be converted into one of the required units of measure taking into account the appropriate density or specific gravity of the waste.

- D. PROCESSES
- PROCESS CODES:
For listed hazardous waste: For each listed hazardous waste entered in column A select the code(s) from the list of process codes contained in Item III to indicate how the waste will be stored, treated, and/or disposed of at the facility.
For non-listed hazardous wastes: For each characteristic or toxic contaminant entered in column A, select the code(s) from the list of process codes contained in Item III to indicate all the processes that will be used to store, treat, and/or dispose of all the non-listed hazardous wastes that possess that characteristic or toxic contaminant.
Note: Four spaces are provided for entering process codes. If more are needed: (1) Enter the first three as described above; (2) Enter "000" in the extreme right box of Item IV-D(1); and (3) Enter in the space provided on page 4, the line number and the additional code(s).

2. PROCESS DESCRIPTION: If a code is not listed for a process that will be used, describe the process in the space provided on the form.

NOTE: HAZARDOUS WASTES DESCRIBED BY MORE THAN ONE EPA HAZARDOUS WASTE NUMBER - Hazardous wastes that can be described by more than one EPA Hazardous Waste Number shall be described on the form as follows:

1. Select one of the EPA Hazardous Waste Numbers and enter it in column A. On the same line complete columns B,C, and D by estimating the total annual quantity of the waste and describing all the processes to be used to treat, store, and/or dispose of the waste.
2. In column A of the next line enter the other EPA Hazardous Waste Number that can be used to describe the waste. In column D(2) on that line enter "included with above" and make no other entries on that line.
3. Repeat step 2 for each other EPA Hazardous Waste Number that can be used to describe the hazardous waste.

EXAMPLE FOR COMPLETING ITEM IV (shown in line numbers X-1, X-2, X-3, and X-4 below) - A facility will treat and dispose of an estimated 900 pounds per year of chrome shavings from leather tanning and finishing operation. In addition, the facility will treat and dispose of three non-listed wastes. Two wastes are corrosive only and there will be an estimated 200 pounds per year of each waste. The other waste is corrosive and ignitable and there will be an estimated 100 pounds per year of that waste. Treatment will be in an incinerator and disposal will be in a landfill.

LINE NO.	A. EPA HAZARDOUS WASTE NO. (enter code)	B. ESTIMATED ANNUAL QUANTITY OF WASTE	C. UNIT OF MEASURE (enter code)	D. PROCESSES	
				1. PROCESS CODES (enter)	2. PROCESS DESCRIPTION (if a code is not entered in D(1))
X-1	K 0 5 4	900	P	T 0 3 D 8 0	
X-2	0 0 2	400	P	T 0 3 D 8 0	
X-3	D 0 0 1	100	P	T 0 3 D 8 0	
X-4	D 0 0 2				included with above

NOTE: Photocopy this form before completing if you have it. FOR DESCRIBING OTHER PROCESSES (code "104"), FOR EACH PROCESS ENTER THE FOLLOWING INFORMATION: EPA I.D. NUMBER (enter from page 1) T/A/C 1 S W 1 2 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

IV. DESCRIPTION OF HAZARDOUS WASTES (continued)

W 1 2 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

LINE NO.	A. EPA HAZARD. STENO. (enter code)				B. ESTIMATED ANNUAL QUANTITY OF WASTE	C. UNIT OF MEASURE (enter code)	D. PROCESSES															
	23	24	25	26			1. PROCESS CODES (enter)								2. PROCESS DESCRIPTION (if a code is not entered in D(1))							
1	F	0	1	7	120,000	P	S	0	1	S	0	2										
2	F	0	0	1	12,000	P	S	0	1	S	0	2										
3	F	0	0	2	12,000	P	S	0	1	S	0	2										
4	F	0	0	4	4,000	P	S	0	1	S	0	2										
5	F	0	0	5	7,000	P	S	0	1	S	0	2										
6	K	0	7	8	7,000	P	S	0	1	S	0	2										
7	K	0	8	6	100	P	S	0	1													
8	P	1	0	0	600	P	S	0	1													
9	D	0	0	1	80,000	P	S	0	1	S	0	2										
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23																						
24																						
25																						
26																						

continuing thence South 01° 08' 00" West and parallel to the East line of the
the West 1/2 of said 1/4 Section 3-18, 73 ft. to the point of beginning of the land herein
described

EPA I.D. NO. (enter from page 1)											
S											T/A C
F											6
1	2									13	14 15

V. FACILITY DRAWING

All existing facilities must include in the space provided on page 5 a scale drawing of the facility (see instructions for more detail).

VI. PHOTOGRAPHS

All existing facilities must include photographs (aerial or ground-level) that clearly delineate all existing structures; existing storage, treatment and disposal areas; and sites of future storage, treatment or disposal areas (see instructions for more detail).

VII. FACILITY GEOGRAPHIC LOCATION

LATITUDE (degrees, minutes, & seconds)										LONGITUDE (degrees, minutes, & seconds)																
		8	8			5	8					1	5				4	3			0	8			0	0
65	66			67	68			69	71	72	74	75	76	77	79											

VIII. FACILITY OWNER

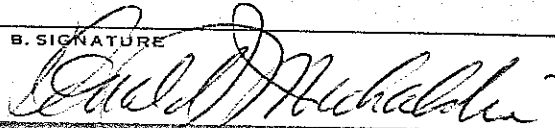
XXA. If the facility owner is also the facility operator as listed in Section VIII on Form 1, "General Information", place an "X" in the box to the left and skip to Section IX below.

B. If the facility owner is not the facility operator as listed in Section VIII on Form 1, complete the following items:

1. NAME OF FACILITY'S LEGAL OWNER															2. PHONE NO. (area code & no.)																			
3. STREET OR P.O. BOX															4. CITY OR TOWN										5. ST.					6. ZIP CODE				

IX. OWNER CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

A. NAME (print or type)		B. SIGNATURE		C. DATE SIGNED	
Donald J. Michalski				11/14/80	

X. OPERATOR CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

A. NAME (print or type)		B. SIGNATURE		C. DATE SIGNED	

ADDITIONAL PROCESS CODES FROM ITEM D(1) ON PAGE 3

the West 1/2 of said 1/4 Section 301.71 ft. to the point of beginning of the land herein described;

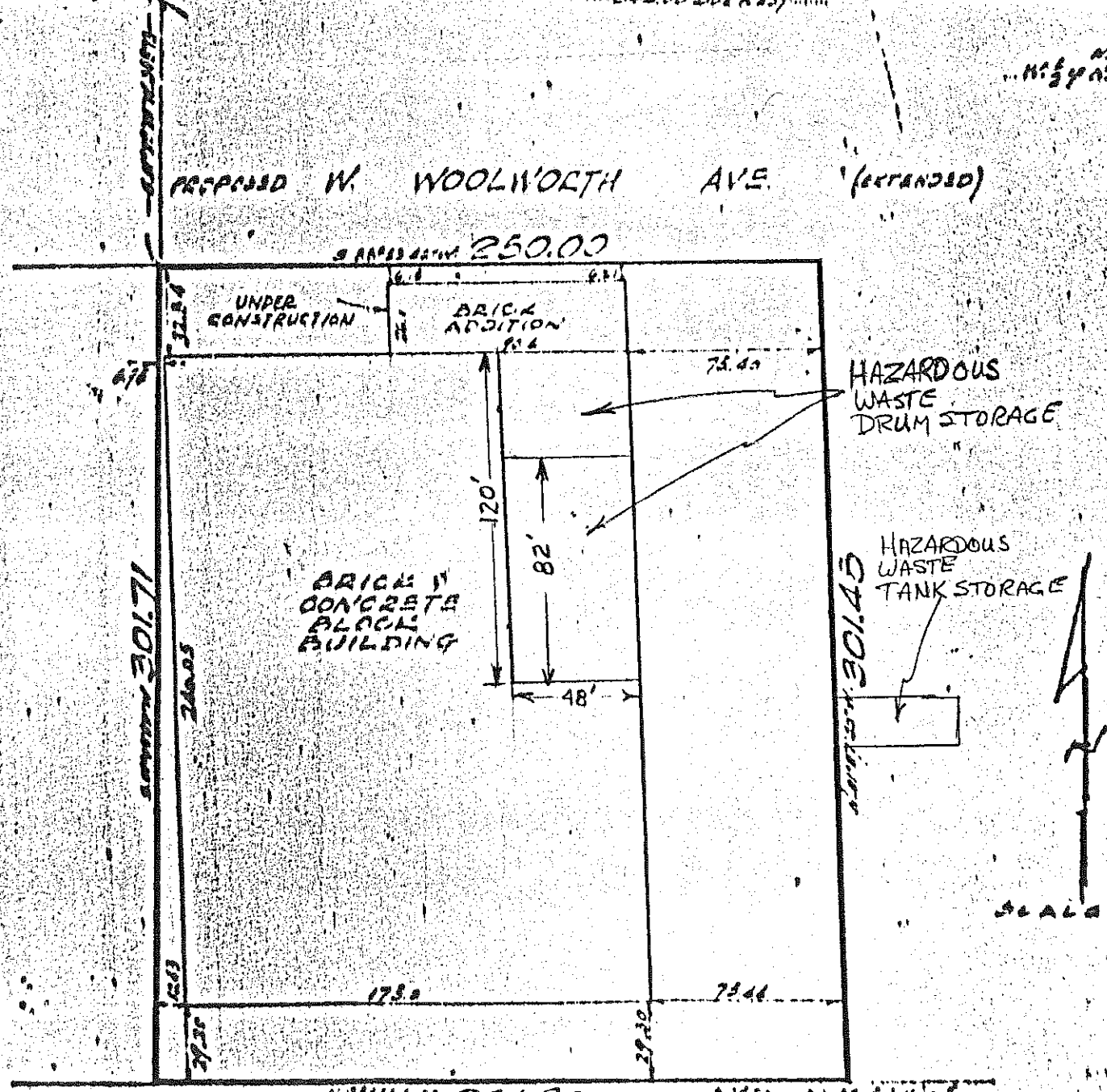
continuing thence South $01^{\circ} 08' 00''$ West and parallel to the East line of the West 1/2 of said 1/4 Section 301.71 ft. to a point in the North line of the Chicago and Northwestern Railroad right of way; thence North $88^{\circ} 53' 46''$ East along the North line of the Chicago and Northwestern Railroad right of way 261.00 ft. to a point; thence North $01^{\circ} 07' 40''$ West 301.48 ft. to a point; thence South $88^{\circ} 53' 46''$ West and parallel to the North line of the Chicago and Northwestern Railroad right of way 250.00 ft. to the point of beginning.

February 9, 1900

April 13, 1960

June 21, 1960

Survey No. 02342
Revision No. 2
Revision No. 3



We Certify that we have surveyed the above described property and that the above plat is an accurate survey and a true representation thereof and correctly shows the exterior boundary lines and location of buildings and other improvements.